

**May 4, 2005**

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FLOOR DEBATE

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LB 421

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain of the day is the Reverend Brian Friedrich, from the...the president of the Concordia University, Seward, Nebraska, Senator Stuhr's district, the 24th District. Reverend, please.

PASTOR FRIEDRICH: (Prayer offered.)

SENATOR CUDABACK: Reverend Friedrich, we thank you for being with us this morning. Appreciate you being here as our chaplain of the day. We call the seventy-second day of the Ninety-Ninth Legislature, First Session, to order. Senators, please record your presence. Record please, Mr. Clerk.

ASSISTANT CLERK: I have a quorum present, Mr. President.

SENATOR CUDABACK: Are there any corrections for the Journal?

ASSISTANT CLERK: There are no corrections this morning.

SENATOR CUDABACK: Any reports, messages, or announcements?

ASSISTANT CLERK: One item, Mr. President. A notice of committee hearing for various gubernatorial appointments by the Health and Human Services Committee. (Legislative Journal page 1365.)

SENATOR CUDABACK: We now go to General File, budget bills. Mr. Clerk, LB 421.

ASSISTANT CLERK: Mr. President, LB 421 was introduced by the Speaker at the request of the Governor. (Read title.) The bill was read for the first time on January 13, referred to the Appropriations Committee. The committee reports the bill to General File with committee amendments attached. (AM1240, Legislative Journal page 1330.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Pederson, Chairman of the Appropriations Committee, you're recognized to

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open on LB 421.

SENATOR D. PEDERSON: Mr. President, thank you very much. Members of the Legislature. LB 421 is generally described as a deficit bill. It's in your committee books that you have. It's on...begins on page 87. And this makes adjustments in the funding for the fiscal year 2004-2005. These adjustments reflect instances where the forecast of cost for various measures has either risen or decreased from what was originally estimated. And when we passed the budget two years ago, we provided for these funds based upon what we understood to be the need for the money at that time. A complete listing of the various elements that make up this deficit appropriation process is included beginning at page 87. So please refer to that if you have any specific questions. Overall, interestingly, these funding adjustments result in a General Fund saving of \$23.2 million, which goes back into our funds. And this includes a \$6.5 million reduction for '04-05 new appropriations, and a \$16.7 million lapse of prior years' appropriations, line 5 of the fiscal status. So with that, I would request the passage of LB 421.

SENATOR CUDABACK: Thank you, Senator Pederson. Mr. Clerk, an amendment.

ASSISTANT CLERK: Mr. President, there are amendments offered by the Appropriations Committee to LB 421.

SENATOR CUDABACK: Senator Pederson, Chairman of the Appropriations Committee, you're recognized to open on AM1240.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. The amendments that we have for LB 421 is a...is basically a redo of all of the items that were contained in the original bill as we evaluated them during the Appropriations Committee process. So what I said concerning LB 421 is actually what occurs in the amendment, which is AM1240, and the amendment becomes the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. (Visitors introduced.) Discussion of the amendment presented by Senator

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Pederson, AM1240. Any discussion on the amendment? Senator Pederson, there are no lights on. The Chair recognizes you to close on AM1240.

SENATOR D. PEDERSON: I will waive my closing. Thank you.

SENATOR CUDABACK: Thank you. Question before the body is adoption of AM1240 to LB 421. All in favor vote aye; those opposed vote nay. Voting on adoption of AM1240 to LB 421. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of the Appropriations Committee amendment.

SENATOR CUDABACK: The amendment has been adopted. Anything further on the bill, Mr. Clerk?

ASSISTANT CLERK: Mr. President, I have nothing further.

SENATOR CUDABACK: Open for discussion. Seeing no lights on, Senator Pederson, you're recognized to close.

SENATOR D. PEDERSON: Thank you. I would ask for the advancement of LB 421 as amended. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. The question before the body is, shall LB 421 be advanced to E & R Initial as amended? All in favor vote aye; those opposed vote nay. The question before the body is the advancement of LB 421 to E & R Initial. Record please, Mr. Clerk.

ASSISTANT CLERK: 33 ayes, 0 nays on the motion to advance, Mr. President.

SENATOR CUDABACK: LB 421 does advance. Mr. Clerk, next legislative bill is LB 422.

ASSISTANT CLERK: LB 422 was introduced by the Speaker at the request of the Governor. (Read title.) The bill was read for the first time on January 13, referred to the Appropriations

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Committee. The committee reports the bill to the...to General File with committee amendments attached. (AM1295, Legislative Journal page 1330.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Pederson, as Chairman of Appropriations Committee, you're recognized to open on LB 422.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. LB 422 provides for the funding for the salary and benefits of certain state officers, as required by the Nebraska Constitution and current laws of the state of Nebraska. This bill includes all judges, elected constitutional officers, parole boards, and the Tax Commissioner. The funding is based on current law, and does not include any proposed increase in judges' or constitutional officers' salary levels which would require substantial law changes. So with that, I would ask for the advancement of LB 422.

SENATOR CUDABACK: Heard the opening on LB 422. Senator Pederson, as Chairman of the committee, you're recognized to open on the amendment to LB 422.

SENATOR D. PEDERSON: Mr. President, once again, the amendment actually embodies the bill. And it is as I referred to it. As we went through the proposal initially submitted, we did have to make minor changes in order to complete the funding appropriately for the constitutional officers.

SENATOR CUDABACK: Thank you, Senator Pederson. Discussion on AM1295, an amendment to LB 422. Senator Chambers.

SENATOR CHAMBERS: Mr. President, this is an amendment to LB 422?

SENATOR CUDABACK: It's committee amendments, Senator.

SENATOR CHAMBERS: Oh, the committee amendment. I heard Senator Pederson, if I heard him correctly, say that there had to be some adjustments made. So I'd like to ask Senator Pederson a question or two, if he would yield.

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SENATOR CUDABACK: Senator Pederson, would you yield to a question?

SENATOR D. PEDERSON: I'd be glad to.

SENATOR CHAMBERS: Senator Pederson, I see on the gadget that all of the original sections are stricken, and the committee amendment becomes the bill. It was probably felt that that would be the most...the clearest way to handle what is being done by the committee with this bill?

SENATOR D. PEDERSON: That's correct. We felt that if we just amended in, and strike this, add this, that it would be terribly confusing on the floor for the members of the Legislature.

SENATOR CHAMBERS: So could you tell me briefly what the adjustments were?

SENATOR D. PEDERSON: Primarily, the area of adjustment was in the healthcare insurance of the various officers.

SENATOR CHAMBERS: Were they given more in the way of insurance coverage, or less?

SENATOR D. PEDERSON: I'm sure that they didn't give...we didn't give them any more coverage. I think what happened is that the initial estimate of what the cost would be for health insurance which is provided is greater than what had originally been proposed. So we made the adjustment accordingly. Actually, they're rather minor changes, in this case.

SENATOR CHAMBERS: The adjustment, then, was downward from what had originally been in the bill?

SENATOR D. PEDERSON: No, I think we increased the amount of insurance...not the coverage, but the cost of the insurance. As everyone knows, all the insurance costs for health purposes have gone up.

SENATOR CHAMBERS: So who's paying this cost? The employees

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affected, or the state?

SENATOR D. PEDERSON: We split those costs with the employees.

SENATOR CHAMBERS: So the state and the employees are paying more, because it's necessary to do that to pay for the coverage that is being provided?

SENATOR D. PEDERSON: You're absolutely correct.

SENATOR CHAMBERS: Okay. Now, if I can sum it up, the coverage itself remains exactly the same, but the cost has gone up. Is that because the insurance companies have raised their rates? Or why is that?

SENATOR D. PEDERSON: Mostly, yes.

SENATOR CHAMBERS: Did anybody testify on this bill?

SENATOR D. PEDERSON: I don't believe so. I think they just submitted the information concerning the actual cost of these premiums, and we have made the adjustments accordingly.

SENATOR CHAMBERS: And who submitted it? The representatives of the employees? The Insurance Department? Or just whom?

SENATOR D. PEDERSON: Actually, in this case, the Fiscal Office calculated what those changes were from the information that they have acquired from the various offices.

SENATOR CHAMBERS: And had not the competent Fiscal Office done this and the adjustments been made, would the insurance companies have said that you're not paying enough for the coverage that is being given? Is that...

SENATOR D. PEDERSON: I think we would not have...yes.

SENATOR CHAMBERS: ...what the impact would have been?

SENATOR D. PEDERSON: In a sense, what would happen is that we would not keep them current on the amount of coverage that they

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currently have. In other words, if...just as if you had an insurance policy and you didn't pay the full premium, that would be a concern.

SENATOR CHAMBERS: Would the premium...would the policy then be canceled?

SENATOR D. PEDERSON: Probably we would receive a notification first that if we don't make the appropriate payments, that the policy will be canceled.

SENATOR CHAMBERS: Did the Fiscal staff or anybody else say that these increased costs for premiums were due to the work of trial attorneys?

SENATOR D. PEDERSON: I don't think they delved into the causation of the amount of the premium. I think they simply were informed and found out what the premium would be for the particular coverage that we had been affording. There's no new change in the coverage, no additions to the coverage. It's just that the rates went up. And I think we'll have to speculate as to why those rates went up.

SENATOR CHAMBERS: When the state enters an insurance contract,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...is there any statement in the contract about the period of time covered during which the premiums cannot be increased?

SENATOR D. PEDERSON: I think...it's my understanding that these are two-year policies. So during that two years, the rate doesn't go up. But now that two years goes up, so there was a rate adjustment at the end of the two-year period.

SENATOR CHAMBERS: Because the time is just about out this time, I will wait until I'm recognized. Then I have just two or three more questions I'd like to have answered. Thank you, Mr. President.



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SENATOR D. PEDERSON: Thank you.

SENATOR CUDABACK: Senator Chambers, your light is next if you wish to continue.

SENATOR CHAMBERS: Thank you. Senator Pederson, how was the state made aware that these rates were increased? Were the covered employees notified? Was DAS notified? Or just whom received the notice from the insurance carrier that these rates are going to be increased?

SENATOR D. PEDERSON: It's my understanding that what happened in this case, there was a negotiation for the various employees as far as establishing various things, including health insurance, and that based upon the negotiations that took place concerning that, it was determined by the Fiscal Office that there would be an appropriate increase adjustment necessary.

SENATOR CHAMBERS: Now, I see two things here--a negotiation between the state and the employees as to what they would receive. Is that true?

SENATOR D. PEDERSON: Yes. That's correct.

SENATOR CHAMBERS: And then that which was negotiated on and agreed to was this insurance coverage. At some...

SENATOR D. PEDERSON: That would be...oh, I'm sorry.

SENATOR CHAMBERS: At some other location between other parties, the insurance company talked about the increased rates. Is that true?

SENATOR D. PEDERSON: These are based upon bids, as I understand it. And the bid that was accepted was then adjusted by the Fiscal Office to fit into the appropriate request.

SENATOR CHAMBERS: I think I understand it now. And I want to thank you, Senator Pederson, and the staff.

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SENATOR D. PEDERSON: Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on AM1295 to LB 422. Senator Pederson, seeing no senators wishing to speak, the Chair recognizes you to close on AM1295.

SENATOR D. PEDERSON: I would waive my closing on AM1295.

SENATOR CUDABACK: Thank you, Senator Pederson. The question before the body is, shall AM1295 be adopted to LB 422? All in favor vote aye; those opposed, nay. The question before the body is AM1295, offered by the Appropriations Committee to LB 422. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 39 ayes, 0 nays on the adoption of committee amendments.

SENATOR CUDABACK: The motion was successful. The amendment has been adopted. Mr. Clerk, anything further on LB 422?

ASSISTANT CLERK: Mr. President, I have nothing further on the bill.

SENATOR CUDABACK: Thank you. Open for discussion on advancement of LB 422. Seeing no lights on, Senator Pederson, did you wish to close?

SENATOR D. PEDERSON: Mr. President, I would simply say that the discussion that we've had concerning the amendment is embodied in the bill itself. And so accordingly, I would ask that the bill be advanced. Thank you.

SENATOR CUDABACK: You've heard the closing on LB 422. The question before the body is, shall LB 422 be advanced to E & R Initial as amended? All in favor vote aye; opposed, nay. Have you all voted on the advancement who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 40 ayes, 0 nays on the motion to advance the

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bill, Mr. President.

SENATOR CUDABACK: The motion was successful. LB 422 advances. Next legislative bill, Mr. Clerk, LB 423.

ASSISTANT CLERK: LB 423 was introduced at the Speaker at the request of the Governor. (Read title.) The bill was read for the first time January 13, referred to the Appropriations Committee. There are no committee amendments.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Pederson, Chairman of the Appropriations Committee, you're recognized to open on advancement of LB 423.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. This is not a very complicated bill. There will not be any amendments, because it talks about the meager salary of the state legislators. And what we are doing in this is we are providing for the magnanimous sum of \$12,000 per year for each legislator. And I don't know what else I can say about it. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the opening on LB 423. Open for discussion on the motion. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I want to help Senator Pederson get his feet wet as he takes his maiden voyage through these choppy, stormy legislative waters, trying to steer this budget to safe harbor. Senator Pederson, could an amendment be offered, and, if adopted, take effect, to reduce the salary of the senators?

SENATOR CUDABACK: Senator Pederson, would you yield?

SENATOR D. PEDERSON: I think I know why the water is choppy, Senator Chambers. I think I'm talking to the chopper. (Laughter) But I don't believe that we can change, either up or down, what is provided in the constitution.

SENATOR CHAMBERS: Now, Senator Pederson, you gave the correct

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answer. What difference does a constitution make? Why should that stop us from doing anything, in your opinion?

SENATOR D. PEDERSON: Because we are a constitutionally authorized state, and this body is directed by the people of the state of Nebraska, in this case, to have a salary fixed at \$12,000 per year. And being a nation and a state of laws, we are required to abide by that.

SENATOR CHAMBERS: Now, I don't want to be picayunish, or nitpicking, but does the constitution say a salary not to exceed \$12,000? Or does it say the salary must be \$12,000?

SENATOR D. PEDERSON: I don't have it in front of me. But it's my...it's always been my assumption that it was exactly \$12,000.

SENATOR CHAMBERS: An assumption.

SENATOR D. PEDERSON: Not "up to," but just...well, I'd have to look at it. Having practiced law for a long time, ordinarily, on something like that, on a specific question, I would look at the constitution and see. But I'm sure that it says \$12,000, period.

SENATOR CHAMBERS: For the stakes to go to respective charities, how much are you willing to bet on the correctness of what you are saying?

SENATOR D. PEDERSON: I'd feel more comfortable looking at the constitution.

SENATOR CHAMBERS: You don't want to bet, because you're really not sure, correct?

SENATOR D. PEDERSON: I thought we turned down gambling, Senator Chambers.

SENATOR CHAMBERS: Well, that's by...in the casino.

SENATOR D. PEDERSON: Oh.

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SENATOR CHAMBERS: But they have much gambling. In fact, if you go to church, you can gamble right at church. "Saint Bingo," in fact, is a Catholic saint, the saint of gambling. So you can gamble. You're not really sure though now, are you?

SENATOR D. PEDERSON: I...as I said, it's been my understanding that it was fixed at \$12,000, period. And I don't have it in front of me. If you want to wait a moment, I'll get the constitution and look at it and verify it.

SENATOR CHAMBERS: I want to proceed just a bit further in roiling the waters first, to show that a bill which apparently has nothing about it which should raise a question really may have some worthwhile questions to be raised, for educational purposes. Senator Pederson, to your knowledge, is that a self-executing provision of the constitution? Or would the Legislature have to pass a law setting the salary?

SENATOR D. PEDERSON: I don't think that we...well, I will say "I don't think"...I know that we do not fix the salary. What we do is, by legislative enactment, carry out the will of the people as provided in the constitution. And that's why we have LB 423, which is to implement the...for this biennium, the will of the people that our salary be fixed at \$12,000 a year.

SENATOR CHAMBERS: Well, what this appropriation bill does is to give enough money to pay the salaries, which are set somewhere. Your understanding at the moment is that the constitution mandates a \$12,000 salary, and no...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...authorizing legislation was necessary. Is that your understanding at this point?

SENATOR D. PEDERSON: Senator Chambers, now we have the word. The word is that...

SENATOR CHAMBERS: Let the word be given.

SENATOR D. PEDERSON: Let the word be given. The salary shall

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not exceed \$12,000 per year.

SENATOR CHAMBERS: Senator Pederson, who suggested that that might be the wording of the constitution?

SENATOR D. PEDERSON: The working Fiscal Office has looked it up, behind me, because I couldn't get to the constitution in time to see it.

SENATOR CHAMBERS: But before the Fiscal Office looked it up, who on the floor stated that as the way that the constitution would have made reference to our salary?

SENATOR D. PEDERSON: I think you did.

SENATOR CHAMBERS: You think or you know? Is there some doubt?

SENATOR D. PEDERSON: You and I are the only two that are talking here. (Laugh) So it wasn't me. And by process of elimination, I guess it was you.

SENATOR CHAMBERS: All right. Now, we must have enacted a statute to set the amount at \$12,000.

SENATOR CUDABACK: You may continue, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. I'm sorry I didn't hear you. So we must have enacted a statute that set the salary at \$12,000. Would you agree with that,...

SENATOR D. PEDERSON: Yes.

SENATOR CHAMBERS: ...using logic?

SENATOR D. PEDERSON: Yes.

SENATOR CHAMBERS: May we legally appropriate less money than the statute sets as our salary?

SENATOR D. PEDERSON: I hope not. (Laugh)

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SENATOR CHAMBERS: May we, though?

SENATOR D. PEDERSON: The constitution says up to \$12,000, and we could make it less than that.

SENATOR CHAMBERS: Now, you were correct when you said a person's salary in these offices cannot be increased or diminished during the term. So the Legislature could enact any bill into law that it chooses, especially one of these appropriations bills, by not appropriating the amount of money necessary. The Legislature could do that, couldn't it?

SENATOR D. PEDERSON: Yes.

SENATOR CHAMBERS: We could, by 25 votes,...

SENATOR D. PEDERSON: Yes.

SENATOR CHAMBERS: ...lessen the amount, and then enact that lesser amount into law, couldn't we?

SENATOR D. PEDERSON: We could.

SENATOR CHAMBERS: But any senator could take that to court and have it struck down as unconstitutional, because it violates the constitutional provision that our salary can neither be raised or lowered during our term of office. Would you agree with that?

SENATOR D. PEDERSON: If we pass it here, it can't be changed later, yes.

SENATOR CHAMBERS: Thank you. That's all I will ask Senator Don Pederson. Members of the Legislature, sometimes it helps us if we understand how the law works, the interrelationship between the constitution and the laws that we enact. It helps for us to understand what our salary is, how it got to be what it is, and how it is fixed, whether or not the provision in the constitution is self-executing, which it is not, whether, when the Legislature enacted a statute setting a salary, could it in fact have set a lower salary than \$12,000 per year? It could

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have, but we chose not to, and I'm glad we didn't. We could enact any appropriation that we choose, and we could send it to the Governor. And if he signed it, it would be law. If he vetoed it and we overrode his veto, it would be law. And it would remain the law until such time as somebody took it to court and had the Nebraska Supreme Court throw it out. It would not automatically cease to be the law. But a question could rise. Would the ones who make out our checks feel bound by that unconstitutional law? Or would they comply with the statute, which sets our salary at \$12,000 per year? Which would they feel obliged to honor? They could argue that they are bound to pay the amount that the statute set. However, if money was not appropriated, they cannot do that, so they would be bound to use the amount that was appropriated. If that amount had been paid and a senator took it to court, but several checks had been cut for each senator, would then the Legislature make a deficit appropriation the following year? How would they handle that? I'll bet these questions don't go through people's minds. But they go through mine. And I just want to share some of that and have it put into the record. When we get to that omnibus budget bill,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...I have many, many questions. And I have a few amendments, just a few. But there is a strategy. All of these amendments that I will offer individually could be handled if one general amendment is adopted by the body. But that will come up when we get to LB 425. I would like to ask Senator Don Pederson a question.

SENATOR CUDABACK: Senator Pederson, would you yield?

SENATOR D. PEDERSON: Yes.

SENATOR CHAMBERS: Senator Pederson, when we get to LB 425, are there any amendments other than the committee amendment that will be coming from the Appropriations Committee, that you're aware of?

SENATOR D. PEDERSON: Yes.



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SENATOR CUDABACK: Time, Senator.

SENATOR D. PEDERSON: Yes, there will.

SENATOR CUDABACK: You may continue.

SENATOR CHAMBERS: Thank you. The reason I'm doing this, because I feel that all of these bills in the package before us relate to the budget. So anything discussed at this point is done preliminarily to discussing LB 425. But they have a bearing. And I'd like to ask Senator Don Pederson this question.

SENATOR CUDABACK: Senator Pederson.

SENATOR CHAMBERS: Senator Don Pederson, will these bills that we are routinely passing across right now have an impact on the state's overall budget?

SENATOR D. PEDERSON: Well, they all add to and make up part of the budget, yes.

SENATOR CHAMBERS: So in a sense, this discussion is as pertinent to LB 425, in the broad sense, as it is to each of these individual bills.

SENATOR D. PEDERSON: Yes. Everything that's in the budget book that has been handed out to all of the senators embodies the same things that we're talking about here today.

SENATOR CHAMBERS: Now, Senator Pederson, are the other amendments, besides the committee amendment, which may come from the Appropriations Committee, on the gadget at this point? I hadn't checked it this morning.

SENATOR D. PEDERSON: One of them is on there. I'm not sure about the second one. Primarily, these are clarification, not new additions or changes, but to clarify. And they found that there are some typographical errors and things of that nature. We intend to correct those.

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SENATOR CHAMBERS: Okay. So we could put these in the category of minor technical amendments, rather than anything substantive?

SENATOR D. PEDERSON: Yes. In one case, it was neglected to carry over from what had originally been in the law into the amendment itself. And that will be corrected. And I've filed an amendment in that respect.

SENATOR CHAMBERS: So those amendments, for the process, will be taken before any individual amendment by any senator. Would that be correct?

SENATOR D. PEDERSON: I assume so.

SENATOR CHAMBERS: The committee's...okay.

SENATOR D. PEDERSON: Yes.

SENATOR CHAMBERS: Now, how many sections are there to the budget, if you have any idea?

SENATOR D. PEDERSON: For the budget bill itself, it's about 280 different provisions.

SENATOR CHAMBERS: So if I were...

SENATOR D. PEDERSON: And then subdivisions within those divisions.

SENATOR CHAMBERS: But now, each section of the budget bill can stand alone. Is that true, or not true?

SENATOR D. PEDERSON: They all stand on their own, and then they compile together to make the budget proposal. Yes.

SENATOR CHAMBERS: So if I would move to...if I would request a division of the question, all that would have to be done is to divide it into the number of sections in the bill, and it could be done in that fashion. Would you agree?

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SENATOR D. PEDERSON: (Laugh) I'm not encouraging it. But yes, I would agree.

SENATOR CHAMBERS: Senator Pederson, I pay attention to what you tell us. You told us that there are three things that the Legislature must do. One of them was to build a budget. The other was to adjourn. Do you remember the third one that you told us?

SENATOR D. PEDERSON: Well, we had to open. And then I forgot to mention that you added three more.

SENATOR CHAMBERS: But the three you added. I meant, the three you gave were...I gave two out of those three correctly,...

SENATOR D. PEDERSON: Yes.

SENATOR CHAMBERS: ...and you provided the third one. Would you agree?

SENATOR D. PEDERSON: Yes. But when we were talking the other day, you did mention I neglected to bring up three other items, which had to do with lobbyists.

SENATOR CHAMBERS: (Laugh) Right. But I'm not going into that today. I'm going to stay on the budget. What individual bill can you think of that may be more important in its impact on the state than the budget bill?

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: To my mind, there is no bill that's as important as the budget.

SENATOR CHAMBERS: Are you aware that other amendments have been divided?

SENATOR D. PEDERSON: Yes, I am.

SENATOR CHAMBERS: Dividing this bill would give us the opportunity to thoroughly debate, as a committee of the whole,

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in a manner of speaking, all of the appropriations to these individual agencies. And we would have a clearer, more profound understanding than we've ever had of a budget during my time here or your time here. Would you agree with that?

SENATOR D. PEDERSON: I would. And we'll probably be shoveling snow when we finish that process. (Laugh)

SENATOR CHAMBERS: Shoveling snow on the earth, or in Hades?

SENATOR D. PEDERSON: (Laugh) Hopefully on earth.

SENATOR CHAMBERS: Senator Pederson, under the rules, I have that privilege and prerogative. And as I've read through this budget--I haven't read through all of it, but I read through the document that was given to us--I cannot tell you in all honesty that I have mastered...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...what is in that document. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the advancement of LB 423? There are no lights on, Senator Pederson. You're recognized to close on the advancement of LB 423.

SENATOR D. PEDERSON: I would ask that we advance LB 423. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. The question before the body is, shall LB 423 advance to E & R Initial? All in favor of the motion vote aye; those opposed to the motion vote nay. Have you all voted on the motion who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 31 ayes, 0 nays on the motion to advance LB 423, Mr. President.

SENATOR CUDABACK: LB 423 does advance. Mr. Clerk, next bill

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will be LB 424.

ASSISTANT CLERK: LB 424 was introduced by the Speaker at the request of the Governor. (Read title.) The bill was read for the first time on January 13 of this year, referred to the Appropriations Committee. The committee reports the bill to General File with committee amendments. (AM1284, Legislative Journal page 1334.)

SENATOR CUDABACK: Senator Pederson, as Chairman of the Appropriations Committee, you're recognized to open on LB 424.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. LB 424 appropriates funds for the reaffirmation and new construction of projects. New construction refers to projects initiated in the 2005 session, while reaffirmations refer to funding needed to complete projects authorized and initial funding provided for in prior legislative sessions. A summary and complete listing of the construction projects start on page 79 of the book that we distributed to you. Over the two years of the biennium, about 83 percent of the recommended General Funds for capital construction and reaffirmation of projects initiated in prior sessions. This includes \$5.7 million each year for the continuation of the NETV digital conversion project; \$5.9 million in each year for the state's share of the deferred maintenance and repair project at the University of Nebraska and state colleges, as authorized under LB 1100; \$1,700,000 each year for renovation of the Carpenter NETC building; and \$3.9 million in FY '05-06, and \$1.3 million in '06-07, for the continued funding for the State Capitol masonry and construction project. I might mention that in regard to that, this is an ongoing project. Certainly, it's cost a great deal more than we ever anticipated that it would cost. But we are in the process of funding as needed, and we still have a long way to go. But it's typical of a remodeling project, in that you start it, you find out...and particularly, a building as old as this one is, when you tear into something, you find we have to make certain changes we didn't anticipate, and so the project is carried on longer. In terms of new construction, there are only two major projects with General Fund impact--the renovation of the Engineering Building at UNO,

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CPACS building; and renovation of Sparks Hall at Chadron. So I would say that I would be glad to answer any questions concerning these various projects. Thank you.

SENATOR CUDABACK: As stated by the Clerk, there are committee amendments. Chairman of the Committee, Appropriations, you're recognized to open, Senator Pederson.

SENATOR D. PEDERSON: As has been the case in prior bills that I've been talking about this morning, there were changes that took place from the initial proposal. And those are all embodied in the amendment. And in a sense, the amendment now becomes the bill itself. So with that, I would close my discussion. And if you wish to ask any questions or make comment, I would be glad to handle them. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the opening on AM1284. Open for discussion. Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Senator Pederson, this is one of our long days. And I'm expected to be worn out by the time we get into the posterior portions of the day. So the more work that I can be made to do early on, the greater likelihood there is that I'll be worn out and have no gas left. But we should proceed. Because for all I know, as I often point out to raise my colleagues' spirit in order that they won't be depressed at the prospect of a long, dragging, difficult day, the world could end before noon today. But here's the question I would ask of Senator Pederson. Senator Pederson, on page 22 of the committee amendment, Section 37 deals with Agency number 51. That's the University of Nebraska. Is that correct?

SENATOR D. PEDERSON: That's correct.

SENATOR CHAMBERS: And as I look through this, I cannot grasp everything right now. And by the way, I'm not going to ask to divide this question.

SENATOR D. PEDERSON: Thank you.

SENATOR CHAMBERS: So don't worry about that. That comes later.

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Decisions are going to be taken by the Board of Regents. Is that true?

SENATOR D. PEDERSON: Yes.

SENATOR CHAMBERS: And I see on page 24, in line 19, it talks about, the Board of the Regents of the University of Nebraska shall not pledge the credit of the state of Nebraska for the payment of any sum owing on account of such contract, and so forth. Suppose the Regents would disregard that, and pledge the state...the credit of the state, and based on that pledge, a contract was entered into by a party to provide whatever the contract would provide. Would that contract be invalid on its face?

SENATOR D. PEDERSON: Probably...

SENATOR CHAMBERS: Would it be void?

SENATOR D. PEDERSON: Probably not. It probably would be in the area of voidable, rather than void.

SENATOR CHAMBERS: Would the person or entity which relied on that representation and had entered into performing the contract be compensated for the work that had already been done? Or would they just be out in the cold, and the university would thereby be unjustly enriched? If you know the answer.

SENATOR D. PEDERSON: Well, my conclusion as a lawyer would be that their claim would be against the Board of Regents for having entered into such a contract, and that they could recover from the university itself.

SENATOR CHAMBERS: They could recover from the university, or the Board of Regents?

SENATOR D. PEDERSON: Yes.

SENATOR CHAMBERS: If there's a rapscallion on the board who got there by cheating and breaking the law, there could be an attempt to get the board to do things that violate the law in

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this regard. Is that true?

SENATOR D. PEDERSON: Well, I would think that the type person you'd be referring to would have to be a majority of the board for there to be action taken in that regard.

SENATOR CHAMBERS: Well, these people are very skillful, savvy, and cunning. If that person was able to persuade a majority of the board to go along, then things could be done that are not authorized under the statutes. Is that possible?

SENATOR D. PEDERSON: Well, I would say the board members who would do that would carry a personal liability for engaging in such activity.

SENATOR CHAMBERS: Because their duty is clear-cut, and they would intentionally and knowingly violate that duty, and that would take away any protection they might have, as might be case if they made a good-faith error in judgment. Would you agree?

SENATOR D. PEDERSON: Yes. And I would doubt that they could even acquire insurance...

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: ...that would cover that kind of liability. Because it would be a willful violation of their responsibility.

SENATOR CHAMBERS: Are you worried about anything like that happening at the hands of the current Board of Regents?

SENATOR D. PEDERSON: No.

SENATOR CHAMBERS: Nor am I, Senator Pederson. I'm going to put my light on again, because I'm enjoying this little tete-a-tete with you this morning.

SENATOR CUDABACK: Thank you, Senator Chambers. Mr. Clerk, motion on the desk.



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ASSISTANT CLERK: Mr. President, Senator Schimek would move to amend the committee amendments with AM1372. (Legislative Journal page 1360.)

SENATOR CUDABACK: Senator Schimek, you're recognized to open on your amendment to the committee amendments to LB 424.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members of the body. This amendment is what is known, striking while the iron is hot, or maybe, striking while the furnace is cold. But it is an amendment to the Capitol Building Fund, or the Capital Improvements Fund. And it's found on page 26 of the committee amendment. And what it wants to do is it wants to say that the Capitol Administrator would be authorized to undertake, in 2005 and '06, a study on the Capitol heating, ventilating, and air conditioning system. Now, I was in the building on Monday, and I was...walked into my office at 10:00 in the morning, and my staff was huddled under sweaters and coats and what have you. I believe they had already blown a fuse twice (laugh) with the little space heater, which of course they're not supposed to do, but sometimes necessity dictates. And I walked down the hall, and I found that every other office was in the same kind of condition. People were cold. I can remember it wasn't too many weeks ago that people were roasting. And as you all know, there is not a lot of flexibility in our system, because we are tied to a system which has only two pipes into the building. And that means that before you can start the air conditioning system, you have to turn down the heating system, and vice versa. And what we probably really need is a system that has four pipes coming into the building, so that at any month of the year, you can shut off the air and turn on the heat, or vice versa, so that we have some flexibility in our system. And one of the things that I discovered when I got back to my office and started questioning whether we could do anything about it in the appropriations process, I discovered that indeed there is a master plan that calls for the heating, ventilating, and air conditioning system to be studied. And I want to just read to you a little bit what this master plan says. It says, the current HVAC system, as it's called, in the Capitol was installed in the late 1960s, when central air conditioning was initially added to the Capitol. However, this system was

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designed in an era without significant emphasis on energy efficiency and long-range operational maintenance costs demanded in contemporary systems today. Further, this nearly 40-year-old system is experiencing increased labor costs for maintenance, due to the age of the equipment, which is compounded by an increasing scarcity of replacement parts. As a result, a study is required, it goes on to say. And the study would provide not only recommended HVAC solutions, but also how this work could be done in phases over time, to accommodating...to accommodate the ongoing operation of state offices, and costs associated with such recommendations. In other words, this would probably have to be a phased-in project. We don't know that yet. But that's a possibility at least. This master plan was written in about 2000, I believe. And that...at that time, it was projected that the study would cost probably about \$30,000. It would probably be more than that now. Maybe up to \$50,000, possibly. Nobody knows, because nobody has done the inquiry. And so what I would like to have happen is that we get started on this study right away. It is going to take some time to implement such a study, and I don't think that we should wait any longer. There is even the possibility, I've been told, that at some point the system could go down. Because if you switch over to air conditioning from heating, or heating to air conditioning, I'm not sure which it is, at some point you might be in danger of even freezing the pipes. So I would like to get the study started as soon as possible. That's the amendment. I'd be happy to answer any questions that you might have. But I hope that you'll see that it's probably a good thing to do.

SENATOR CUDABACK: Thank you, Senator Schimek. (Visitors introduced.) Senator Chambers, on the Schimek amendment, followed by Senator Don Pederson and Senator Raikes.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I applaud Senator Schimek for bringing this amendment. What she is discussing is a set of circumstances that have obtained since the time that I first got here, and I'm sure for a long time before then. I am not afflicted to the extent that others are by what are considered drastic changes in the temperature. When other people are cold and dressed in the way that Senator Schimek described, I don't feel any discomfort. When the

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temperature is high enough for people to sweat and be losing energy, I don't suffer any discomfort. My philosophy is that nothing outside of us affects us any more than we will allow it to, when it comes to such things as the climate changes. Now, if the temperature were 20 below, that's a different matter. If it were 130 above, that's a different matter. But within the ranges of temperatures that take place in this building, that's what I'm talking about. I have never been one, generally speaking, to try to impose on others my way of doing things--I say generally speaking--or suggesting that they may react to things in the way that I do. Many people have complained to me about the discomfort that they feel because of these different temperatures that Senator Schimek mentioned, temperatures which are inappropriate for the season. I'd like to ask Senator Schimek a question. Senator Schimek, you may have touched on this. Who right now, or which entity, controls the heating and cooling of this building at this point?

SENATOR SCHIMEK: Senator Chambers, it is my understanding, first of all, that now...that the decision on the heating and cooling goes through the Capitol Administrator, as far as who authorizes the changeover. And part of the system comes through the university, and part of it comes through the city of Lincoln.

SENATOR CHAMBERS: Does the city of Lincoln immediately comply with the request of the Capitol Administrator?

SENATOR SCHIMEK: I presume so, Senator. Yes.

SENATOR CHAMBERS: So then the Capitol...

SENATOR SCHIMEK: But now, let me qualify that, because it takes some time for the system to be changed over. So I think we saw that a couple of weeks ago, when Senator Brashear requested that the air conditioning come on. It couldn't do so immediately. They had to do some work before that could happen.

SENATOR CHAMBERS: I didn't want to say it at the time, but they did some checking, and they found out that the air conditioning was on, but there was an influence in the Chamber that had

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raised the temperature so high that the air conditioner could not overcome that. And I didn't even have discussions with the Speaker, as I usually do, but I made up my mind within myself that I would not raise the temperature that much around here,...

SENATOR SCHIMEK: But I...

SENATOR CHAMBERS: ...and I toned down my discussion.

SENATOR SCHIMEK: I think that happens frequently, Senator Chambers.

SENATOR CHAMBERS: (Laugh) I'm being harassed and hounded over here in the culture corner. But Senator Schimek, when the university is contacted, do you have any idea how long it takes for the university to make a change?

SENATOR SCHIMEK: Well, I don't think it takes long, Senator Chambers. And I know Senator Withem is out...or, former Senator Withem, the university lobbyist, is out there to answer any questions that we might have. I don't think it takes them long. I think it's what happens internally here that takes a few days.

SENATOR CHAMBERS: Does a temperature setting at the university for their buildings influence what kind of temperature setting will be over here? That's what I'm asking. But I'll ask the question a different way. Is the heating of the university different...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...done independently of and from the heating of this building, if you know?

SENATOR SCHIMEK: I don't know. I've always assumed they were tied together. But I'm not quite so sure of that now, because we were able to effect a change a couple weeks ago. I will check on that for you, Senator Chambers.

SENATOR CHAMBERS: And if you can, I'd appreciate that. Those are all the questions that I have. But I definitely support

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your amendment. All it's calling for is a study. And before action of the kind contemplated is undertaken, it would be wise to have this study, so that we can find out all of the ramifications, all of the fallouts, if any, that may be involved. And then we can construct or contrive a legislative response, if there's anything we'd have to do. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion of the Schimek amendment. Senator Don Pederson.

SENATOR D. PEDERSON: Mr. President, members of the Legislature, you know, this heat and air has always been a problem. I've been here nine years, and we've not hit it right yet. But we have perspiration running down people's faces, except for Senator Schimek, who still is wearing a coat at the time...oh, and Senator Price, I forgot, yes. And so everybody has their own inner thermostat. But the problem is that with this kind of a system, we get the heat from LES, and then when we shut that off, then it takes a while to adjust to get the chilled air, which comes from the university. But I think a study would certainly be worthwhile. And...but I want to just clarify something with Senator Schimek. Senator Schimek, would you respond?

SENATOR CUDABACK: Senator Schimek, would you yield to a...or, respond, rather?

SENATOR SCHIMEK: Yes.

SENATOR D. PEDERSON: Just to clarify for the record, this proposal that you have will not cost any additional dollars at this point?

SENATOR SCHIMEK: No. It comes out of the \$750,000 that's already there for the capital improvements. It's just a matter of saying we think this is a priority. And that would be...I'm sure that would be heeded by the Capitol Administrator. In fact, I've talked with him about it.

SENATOR D. PEDERSON: Have you talked to DAS about that also?

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SENATOR SCHIMEK: Yes, I have. I tried to touch base with as many people as I knew would be concerned or interested in it.

SENATOR D. PEDERSON: Well, thank you, Senator Schimek. I...you know, spring is the only problem that we have around here, because...unless Senator Chambers decides to divide everything. At that point, then we'd need to worry about the winter coming on, too. But I think it's very worthwhile to consider how we could perhaps segment the heat and the air conditioning process in here. I had a law office where we had the...we had either chilled air, or we had hot air. And we never hit it right, just as we have not hit it right here in this Legislature. So I would concur. I think this is very worthwhile to look at. And I commend Senator Schimek for looking into this. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Further discussion. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. As I understand the Schimek amendment, it would direct the DAS Administrator to include this sort of a study in the...in their work effort, but not require any additional funding. And as such, I...seems like a good idea to me. So I support that amendment. I would, however, like to ask Don...or, Senator Don Pederson, some questions about the Appropriations Committee's work on this bill.

SENATOR CUDABACK: Senator Pederson, would you respond?

SENATOR D. PEDERSON: I'd be glad to.

SENATOR RAIKES: Senator, you sort of went through the listing of reaffirmations. And a couple questions about those. There are several of those that seem to have the same number, or nearly so, for every year for four years. Are these...do you expect that there's an end point to these at some point? It's just not within the scope of this budget and out-biennium?

SENATOR D. PEDERSON: Yes, there is an end...there's an end game with all of these things. We just projected the four-year

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period of time. Some of these carry on beyond that time limit. And we can go through those. I'm not certain how long it will take for the State Capitol Masonry Project, because as I said earlier, whenever they've torn into something, they've found something else that was needed. And we know that it will go on. We've got the money that's shown in this. But this was to phase the construction project and to attempt to get that project moving on a regular time, keep the employees here at the same time. If we could, it would be wonderful if we could add additional monies to the Masonry Project, because we know that it would probably have a benefit dollar-wise to the state to do that, because we're having to delay a lot of things that, if they were working on it at one time, it would benefit.

SENATOR RAIKES: Let me pursue that with you somewhat. How much money has the state spent so far on the Masonry Project at the State Capitol?

SENATOR D. PEDERSON: Approximately \$21 million so far.

SENATOR RAIKES: And I think you already addressed this to some extent. But is there a total number that you can come up with at this stage?

SENATOR D. PEDERSON: We know that it will be something in excess of \$10 million to finish the project. And...

SENATOR RAIKES: For a total of \$31 million, then, or so?

SENATOR D. PEDERSON: We've had totals that we've been totaling for a long time. And as we've broken into it, we've found we have to keep increasing the total. But we're working with a...not just a multimillion dollar project; we're working with a priceless project. So we have to do what we have to do in order to maintain this building. And I think the people of the state would expect us to do that, Senator Raikes.

SENATOR RAIKES: Realistically, would it be appropriate to assume that there will be money spent on this effort for, say, ten years?

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SENATOR D. PEDERSON: If you look at what we have charted in here, I would say we're covering a four-year period. But that's less than...or, that's a little more than a fourth of what the project would be, probably, that we're putting in here. So I would say that it would go at least another eight years, eight to ten years.

SENATOR RAIKES: Beyond the current date? Or...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...beyond these four?

SENATOR D. PEDERSON: Beyond the current date.

SENATOR RAIKES: Okay. Another question. The biggest item there is the transponder. That's \$5.7 million each, of...for the four years. How many more years of that is there?

SENATOR D. PEDERSON: Just a moment.

SENATOR CUDABACK: Thank you, Senator Raikes. Senator Brashear, followed by Senator Raikes, on the Schimek amendment.

SENATOR BRASHEAR: Mr. President, members of the body, I...as I was monitoring this debate, I certainly wanted to rise in support of the Schimek amendment. I think I've already, on a prior occasion, put my comments of record in favor of doing anything we can do about the climate control system. And I also wanted to make certain that I was a part of the record in perpetuity where we have...where Senator Chambers had spread upon the record the statement that he never seeks to impose his will upon anyone, or something like that. And I wanted to be a part of the same record. And so with that, I'll conclude my remarks, indicating my support of the Schimek amendment.

SENATOR CUDABACK: Are you finished, Senator Brashear? I'm sorry. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President and members. I would like to continue my conversation with Senator Pederson, if I



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might.

SENATOR CUDABACK: Senator Pederson.

SENATOR D. PEDERSON: Yes, I'd be glad to.

SENATOR RAIKES: Senator, the question about the \$5.7 million for the transponders.

SENATOR D. PEDERSON: Yes. I have verified with the Fiscal Office that the funds for the transponder will go until the year 2010. And this...if people will recall, we had two things that happened with public television, and the two things cost a lot of money. One of them, we had a satellite that was slowly sinking in the west, and we had to go to a new method in that respect. And at the same time, we had the digitization process that was required and mandated by the federal government. And they're in the throes of doing that. So in order to finish out that project, it will take until the year 2010.

SENATOR RAIKES: Okay.

SENATOR D. PEDERSON: And that's been separately bonded, by the way, to meet that need.

SENATOR RAIKES: Okay. So tell me, these reaffirmations that the committee recommends, how do they compare with what the Governor proposed in his budget?

SENATOR D. PEDERSON: I think...I believe they're the same. Yes, the Fiscal Office tells me they are the same as what the Governor had...

SENATOR RAIKES: Okay.

SENATOR D. PEDERSON: ...proposed.

SENATOR RAIKES: So there's agreement between the committee and the Governor on that recommendation.

SENATOR D. PEDERSON: Yes.

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SENATOR RAIKES: Moving to new construction, there is a...the biggest...far and away the biggest item is the UNO CPACS. Can you tell me about that project?

SENATOR D. PEDERSON: I'd be glad to. The CPACS building at UNO--and there are people at...from Omaha that know far more than I do about that particular venture. But the CPACS has been the number-one priority of the university system for bringing up to date. And this is a...one of the crown jewels, actually, of the education system in the state. This is the only college that I know of that has been acknowledged in the U.S. News and World Report in Nebraska to be of a truly outstanding nature. And it's involving the public administration, and so forth. And that's the name CPACS--College of Public Administration...or, Public Affairs and...what? And Community Service. It's got a great name. So we call it CPACS. But it's a truly outstanding school. And it literally is in terrible shape. We have done so little in the way of renovating and improving buildings through the university system and through the state college system. And so another one in that same regard is Sparks Hall, administration building at Chadron. These are these brand-new buildings that we're renovating a little bit. One of...one portion of it was built in 1911, and the other one in 1914. And these have been top priority. We've got to do something about them at Chadron. We have over \$3 billion worth of properties in the university system alone, and we have done precious little to keep those up. LB 1100, for which you see above on the deferred maintenance, is for \$5,500,000. And that will run out in 2008. But we're not keeping up our properties as we should. So we have to start doing something with capital construction. These are not new buildings. These are replacing buildings that really are in bad shape. I'm sorry to have encroached on your time.

SENATOR RAIKES: Well, no. That's fine. I appreciate the explanation. On new construction, how does the Appropriations Committee's recommendation compare with what the Governor...

SENATOR CUDABACK: One minute.

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SENATOR RAIKES: ...recommended?

SENATOR D. PEDERSON: I...the Governor did not provide for any of these.

SENATOR RAIKES: So the entire...well, what? It looks like the \$14 million, roughly, for the CPACS building, plus, it would be, like, \$17 million or \$18 million for the new construction, would be all in addition to what the Governor recommended in his budget?

SENATOR D. PEDERSON: Yes, it would. There's no provision for any capital construction in that budget.

SENATOR RAIKES: Okay. Thank you for that explanation, Senator. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. On with discussion. Senator Don Pederson, you're recognized.

SENATOR D. PEDERSON: I would just repeat that the CPACS building and the Sparks Hall are the big differences...one of the big differences between the Governor's Office and our office, in connection with the budget message. So, thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Senator Chambers, followed by Senator Johnson.

SENATOR CHAMBERS: I will waive off for now, and then turn my light on again. Thank you, Mr. President.

SENATOR CUDABACK: You're welcome. Senator Johnson.

SENATOR JOHNSON: Senator Cudaback, members of the body, I just want to stand up and talk about capital construction for just a second. In all of the discussion that's gone on so far, there's been no mention made of the situation regarding the residence halls at the University of Nebraska at Kearney, which, of course, I have good access to. There is a ratings system for residence halls. And 100 is the best; 65 is about as low as you want to get on the scale. The last residence halls built in the

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centennial year are now at the bottom of the acceptable scale of 65 out of 100. The other five residence halls, or, forget the exact number, are all below that. There is an impending disaster that could happen out there if this isn't addressed in the relatively near future, over the next couple of years. These buildings are deteriorating, to the point where there is one residence halls where they quit trying to fix the bathrooms at one end of the hall, and just locked the door. Almost hate to say this, because it certainly isn't going to help their recruiting efforts. But I think it's time that someone spoke publicly and called this to people's attention. This is the residential branch of the university in outstate Nebraska. And if you don't have residence halls pretty soon, that acronym certainly does not apply. So I speak, at this time, just to alert the body that something is going to have to be done out there in the next few years. It's a great school. The main buildings themselves for classes and so on are in quite good shape. But there is disaster looming on the horizon regarding the residence halls. Thank you.

SENATOR CUDABACK: Thank you, Senator Johnson. (Visitors introduced.) On with discussion of the Schimek amendment. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, the Speaker began going in a direction that had my interest, and then all of a sudden it just faded away and nothing happened. But I'm going to tailgate on what he said, with reference to my not wanting to impose my will on anybody. I said "generally speaking." And then I tied it into what we're discussing here, about temperatures. The fact that they don't affect me negatively would not stop me from having a study done so that more comfortable temperatures could be made available for my colleagues. It would be to my advantage to have people coming in here so much more occupied with how cold they are than the issues before us, or how much they're sweating than the necessity of trying to proceed with our business. All of those negative influences that affect my clients...not my clients. The Speaker speaking made me...for some reason put that word in my mind. Not my clients, my colleagues. All those outside negative influences on my colleagues work to my advantage. The

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more they think about how uncomfortable they are, the less they think about the issue that's before them. Lobbyists have figured this out. They know that when the belly gets empty, the head empties along with it. But the funny thing, when the belly is full, the head remains empty. But they know that as senators start thinking about that good old food that the lobbyists are going to give them, as the day wears on, the senators fall into a kind of reverie. And I would call it "reverie" if I'm being kind. It's more like a coma. And all they think about is food. The night before Christmas, not just visions of sugarplums dancing in their head, but pizza, hamburgers, sausage, beef sandwiches. I'm trying to think of everything the lobbyists may feed them. Give them soda pop. Some of us say "pop," others say "soda water." I'm trying to cover the waterfront, so people know what it is that I'm talking about. And the senators start to get a feeling of euphoria. Not to the extent of somebody on meth. But the lobbyists administer--and I put it in quotation marks--a type of "methamphetamine" to the senators when they feed them. They know that people who are laboring under the pangs of hunger are going to consider the ones who will relieve that hunger the greatest friends they have. So the lobbyists step into the breach, and they feed the hungry. There was a time when Jesus was having a talk with a guy named Peter. And I paraphrase these things. Peter, do you believe me? Yes, I believe you. Feed my sheep. Peter, do you trust me? Yeah, I trust you. Feed my sheep. That's from the "Bible." The lobbyists have taken that as their mantra. Do I want to have my hooks in the senators? Yes. Then I'll feed them like sheep. Then one says, no, no, sheep graze, and I think we need a trough-like analogy. I will feed them like feral pigs. No, you can't say "pigs." That's offensive. I will feed them like hogs. That's more like it. And I'll treat them like sheep. That's why the lobbyists have no respect for the Legislature. The hand that feeds, controls. The hand that feeds, controls.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: In other legislatures, lobbyists might have to spend money in a way that could be considered bribes. I don't think there's a person in this Legislature who would take a bribe. I don't think that level has to be reached by the

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lobbyists. All they have to do is give a meat loaf sandwich and a chicken dinner, and everybody will go running over there to the lobbyists. When the dinner bell rings and the lobbyists are in control, bam, there they go. I'm going to turn my light on again. Or is that my third time?

SENATOR CUDABACK: Second time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: You're recognized to speak for your third time.

SENATOR CHAMBERS: If the Speaker, members of the Legislature, had not made his comment that was very mystical, mysterious, then I wouldn't be speaking now. But once I get put in that zone, it's difficult for me not to proceed. If you will turn on your gadget and look at what's before us, you will see that I have an amendment now pending. And my amendment does not go to trying to keep the lobbyists from feeding the senators. That's the quickest way for me to engineer a rebellion within my realm, and I don't want to do that. But what I would want us to do is consider very seriously these budget proposals that are being made. And just by way of tantalizing, I'm going to mention again, when we get to LB 425, I'm going to divide the question, first of all. That, I'm going to do. Other things that I could have done under the rules, I have not done. And I'm not going to tell you what those are, because you might run out here and try to change the rules. So I'll wait and let you hear what those things are at the time that I decide to make use of them. I have come to believe that the budget is a matter to which I should give attention. In years past, I would let the Legislature stumble and fumble its way through, and I would use the time that the budget was being discussed to work on other issues that I had to deal with. I still have an issue or two here and there that I feel I have to give my time to. But I'm looking at that budget now. The hand that feeds, does control. But the one who controls the hand that feeds, controls everything. There are more ways than one to exercise control. I'm going to use the rules. I'm going to use the infirmities that all human beings, more or less, are subject to, to try to

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persuade the body to agree with me on some of the changes I would like to make in this budget bill. I may be successful, I may not. But I intend to use these late nights that the Speaker has assigned because my colleagues want to stay here a long time, I want to use that time wisely and well. Since we're discussing the budget, we're going to be on the budget, unless you vote cloture. Maybe the Appropriations Committee would like to do that, and they will rescue the budget from any amendments that might be irresponsible. But that is what can be done. I don't know that we've had a committee bill clotured before. But I presume the Chairperson of the committee would be the one to make that motion. It would be a new thing to have a cloture vote on the budget to avoid discussing each one of these agencies. Now, when they come before the budget committee, those members have the opportunity to hear the rationale offered by these agencies for the money they want. The developmental discussions that take place in the committee, we members are not privy to. And I want to know. I have the right to know, and I have an obligation to know, and I'm going to find out, if it takes until snow falls and must be shoveled, whether here or in that hot place. And if I can keep us here until that hot place freezes over, I would not be adverse to doing that.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: I'm going to use this minute to digress. I had been trying to send young Senator Smith to Washington, when I find out that there's another that may be going to Washington--young Senator Erdman. Now, as between the two of them, if they're in the same district, Senator Erdman has my vote. What I might do is see if he will hire me on his farm so that I can establish residency there long enough to vote for him. And I will change my registration to "Repelican" so I can vote for him in the primary to go to Congress. Now, that's not just to get rid of him. He might think that, and others might, but that's not why. I think he'd do a good job there. So now that I've brought peace between Senator Smith and Senator Erdman, I think I will sit down. Thank...well, I'll stop. I don't sit down. But thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further

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discussion on the Schimek amendment? Senator Schimek, there are no lights on. You're recognized to close on AM1372 to the committee amendments.

SENATOR SCHIMEK: Thank you, Mr. President and members. I would like to close on the amendment. But I'd also like to respond to a couple things that came up during the discussion. Senator Chambers, first of all, I did find out that the UNL system is separate from the Capitol system. So even though it takes a little while to make the change, when they make the change, it doesn't necessarily change the university campus heating and cooling system. So...and Senator Raikes, I also wanted to respond to something you said, because it is the Capitol Administrator who, along with the Capitol Commission, now makes the decisions on how to prioritize the state capital improvement funds. If you remember, we passed a bill last year, Senator Beutler's bill, on establishing a Capitol Administrator. So with that, the amendment simply says that out of the \$750,000 fund here for the State Capitol improvements, that we will prioritize whatever it takes--and it's thought to be probably somewhat over \$30,000, which is what the estimate was back in 2000--to hire a mechanical engineering firm to actually do the study of the HVAC system, as it's called. So with that, I would simply ask for your support of AM1372.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the closing on AM1372, amendment to the committee amendments, AM1284 to LB 424. All in favor vote aye; opposed, nay. Voting on the adoption of the Schimek amendment to the committee amendments to LB 424. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 28 ayes, 0 nays on the adoption of Senator Schimek's amendment.

SENATOR CUDABACK: The amendment has been adopted. Back to discussion of AM1284. Mr. Clerk, another motion, please.

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend the committee amendments with AM1447. (Legislative Journal pages 1366-1367.)



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SENATOR CUDABACK: Senator Chambers, to open on your amendment to the committee amendments.

SENATOR CHAMBERS: Mr. President, members of the Legislature, as I have indicated, my attention is going to focus on this budget bill. And this amendment focuses on the Game and Parks Commission. I get so much material that comes to my office, as the rest of you do, that I don't have the opportunity to read it when it first arrives. I've got mail--and this is not meant to be humorous--from people who have passed on to eternity, and I'm just now opening it. I had laid it aside. Then I discovered it. I'm trying to keep up with my mail better than that. This amendment is based on information that I received in a mailing from the Environmental Trust Fund. Several grants were awarded to Game and Parks by that fund. Game and Parks is always in here begging money from the state. They always want to increase the fees, always putting up a pitiful mouth. And I think it has become a sacrosanct entity. It is like a fiefdom, and it's presided over by the big shots and the fat cats. What this amendment would do is to create a wash. I'm going to read the purpose of this amendment, so the record is clear. And since I just filed it, people connected with Game and Parks will know. The Game and Parks Commission was awarded \$2,047,730 in grants from the Nebraska Environmental Trust Fund in 2005, for wildlife habitat and other environmental improvement purposes. Several of these grants were for multiyear projects, and the intent was expressed to provide additional funding in the subsequent two years. Specifically, intent was expressed to provide additional funding of \$597,699 in 2006, and \$75,000 in 2007. This amendment would reduce the cash fund appropriation used by the Game and Parks Commission for similar habitat and environmental purposes by \$350,000 in FY 2005-06. That is taking this thing step by step, to deal with the money that they got from the Environmental Trust Fund. Then, when we get to LB 425, there will be an additional provision that will complete the process. But this amendment that I'm offering goes to LB 424. I am not anti Game and Parks. But I am anti the acceptance of inappropriate, improper priorities. I like to give forewarning, when I can, to my colleagues of what is on my mind and what is particularly troubling to me. To take all of the money from the

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Women's Commission, I think, is unconscionable. There are women in this body who will never go through what women currently are suffering. I have spoken against cuts in Medicaid on other bills, and even spoke against a study. I handed out to you all one article dealing with one case that was won by the Appleseed advocacy group where the state inappropriately terminated assistance to women with children, and that didn't bother people on this floor. It bothers me. Another more recent decision was handed down where a woman who had been receiving aid and was kicked off--I'm giving it in very general terms; I have the article and I will share it at the appropriate time--and she wanted to go to school to learn something so that she could earn a living and take care of her family, and the state said no. The court said, oh, but yes. To pretend that women are not suffering problems, I think, is to put on blinders. And to be concerned for fetuses but not women is hypocritical. I have been told that the Appropriations Committee does not want to fund advocacy agencies. What is the Department of Economic Development if not an advocacy agency for business which we fund every year to the tune of millions of dollars? The DEQ has almost fallen under the control of those entities it is to regulate, so it is an advocacy agency for the ones who pollute the environment. There are other advocacy agencies, but as long as they're for big business, the Legislature goes along. I have pointed out that women constitute a numerical majority in this state and throughout the country. But women have been conditioned and trained from little girls on up to be accepting of a subservient, subordinate status. And there are men who entrench that. When they marry a woman, they drill that into her head; you're to serve me; you're to serve my needs; you're to be my sexual fire extinguisher. That's what you're to be, and I will keep you barefoot and pregnant but I'm going to go out into the world and live the way I want to. I'm going to be respected. I'm going to get me a job. I will go where I want to do, do what I please, but you stay home. And if you dare think you have the right to use your mind or exercise your judgment or manifest independence, you are going against the will of the church, against the will of God, against the rules of society, and you're going to die and go to hell, and if you don't die quick enough, I may kill you and send you there sooner. Women are victimized every day. Why do you think this

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whole new syndrome called domestic violence has obtained currency? Certainly you're not so naive as to think that abuse of women just started occurring. Many years ago, before you all were even a gleam in the eye of a legislative career, some of us were pushing a bill and a program that was identified by the term "displaced homemakers." And the displaced homemakers were not people like Senator Jim Jensen, who builds houses. We didn't mean homemaker in the sense of building a house. We meant homemaker in the sense of the woman who is the glue that holds that family together, that will forego an education to help this no-good man get his education, go to law school, go to medical school, become an engineer. Then you know what was happening to these women? The old gray mare, she ain't what they used to be, so they kick her out to pasture, send her to the glue factory, and because she was spending her time having babies and taking care of the home while this man got an education, she has no wherewithal, no skills, to take care of herself, and she was displaced. That means she was put out. And they came to the Legislature, and that's when I became aware of the problems that exist in the white society, how these women who are mothers of the children of these no-good men were being abused in the way they were, and I became one of the leading advocates, and I still am. I will not look away from the problems that...

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: One minute.

SENATOR CHAMBERS: ...women have in this society. Did you say time, Mr. President?

SENATOR JANSSEN: Oh, one minute. You got 53 seconds.

SENATOR CHAMBERS: And I'm going to use every one of them. When a proposal of the kind that I'm making might raise eyebrows in some camps and hackles in others because they're concerned about Game and Parks, I wouldn't be so disturbed if, when we came to trying to help women, there would be some consideration given. Do I love women? I sure do. Do I believe in harems? Absolutely not. And I'm going to explain why there should not

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be polygamy, why there should not be harems, and how that demeans and debases women as individuals, as human beings, and take away the sense of personal dignity. But since my time probably is up right now, I want you to look on your gadget, see what this amendment does, and I will answer...

SENATOR JANSSEN: Time.

SENATOR CHAMBERS: ...any questions you may have about it. Thank you, Mr. President.

SENATOR JANSSEN: Thank you, Senator Chambers. Senator Schrock.

SENATOR SCHROCK: Mr. President and members of the Legislature, I am going to rise in opposition to this amendment. The history of the Environmental Trust is that half of the money received from the lottery, or, I believe, 49.5 percent, to be exact, goes to the Environmental Trust to fund environmental projects that the Legislature otherwise wouldn't fund. And I will tell you, when it comes to human issues, the Appropriations Committee rightfully takes care of those, and sometimes our environment suffers. Most of the money that Senator Chambers would try to remove here is used for habitat issues. They are grants that the Game and Parks has applied for and received from the Environmental Trust. The Environmental Trust has a board, I don't remember how many, but it consists of some state agency heads and some people across the state to represent various segments of our society, and they are people that are concerned about the state of Nebraska. They are people that are concerned about our wildlife issues, our habitat issues, about the species issues. And I think the Environmental Trust has a very good history of grants they've awarded, and the agencies that they've worked with, so I would hate to see this money taken away from that. And I don't know why this issue should be mixed up with the Commission on the Status of Women. To me, it should be a separate issue, and so I would ask you to vote against this amendment, protect the Environmental Trust funds, protect the recipient, in this case the Game and Parks Commission, because they're doing...they're the agency that has the ability to implement a lot of the programs that the Environmental Trust doesn't have the personnel to do. And if they don't contract

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with our state agencies and our local governmental subdivisions to do projects like this, they won't get done. And Game and Parks has that ability. So I would ask you to reject this amendment. Thank you.

SENATOR JANSSEN: Thank you, Senator Schrock. Senator Chambers.

SENATOR CHAMBERS: Mr. President and members of the Legislature, I can understand Senator Schrock's view because he represents the Game and Parks Commission, but I don't. They don't run me. And I will tie any issue into any other issues that I think I should because, you see, I care more for women than I care about habitat and fish. And I'm going to have my way when it comes to getting my time. Now I'm aware of what the Legislature can do to try to shut me up, but I'm going to make them do it. I'm going to make the Legislature shut me up this session, and I'm going to let people see that Congress isn't the only place where that is done. But see, I will win. When I can force the Legislature to go against its rules to shut me up, I own this Legislature. You won't be fair on these issues, you won't be fair to the people that I feel ought to be treated a certain way. I'm going to do everything I can to discommode you. How much inconvenience is it to you? You have to sit here and discuss issues. If you're a woman out there with children, you have no place to go to even find out where you can get help. Which one of you is going to help these women who go to the Women's Commission and get information on where to go to find a way to solve problems? You all aren't going to do it. A lot of you refer people to me. And these women will tell me, I went to my senator and they said, that's something Senator Chambers works on. There are 49 of us, but the other senators know that I care and they don't, and they know I won't slam my door and turn my back on women. I had to help a woman who is down here in Lincoln, and she had five or six children, because she was going to be kicked out of the Housing Authority down here, and I threatened to mess over every bill that Lincoln would bring. I play hardball when women and children are involved. I'm not like these people who take care of the fetuses because the church is going to reward me by taking care of me and my family. I care about these people and I will demonstrate it, and you will not intimidate me, you will not bully me, and you will

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change or disregard your own rules, and I will show the nature of this Legislature. You can't do it in a corner. It has to be done out in the open, and I'm going to make you do it in the open. You will not make me shrivel up and walk away and crawl into a hole like the rest of you will do. I will fight you toe-to-toe and face-to-face, and I will not blink first. I do care about these women, and I may offer an amendment to every provision in the budget bill so I can talk about the Women's Commission. I don't want Senator Schrock to think that because I worked with him on the Hergert case that I've become an advocate of all the positions he takes. He represents the Game and Parks Commission, and he has made it clear by the positions he takes. I know it, you all know it. The Game and Parks Commission is not to be touched. Well, I'll do what I can to touch it, and you can vote against the amendment. But LB 424 is a bill amenable to other amendments. I will get my time even if I can't get justice for the people that I think are entitled to it. The Game and Parks Commission gets grants from the Nebraska Environmental Trust Fund. When they get the money, it's not available to and for anybody else or any other interest. Do I care about wildlife habitat? We all do. Do I care about improving the environment? We all do, until we're talking about the DEQ and big businesses and companies...

SENATOR JANSSEN: One minute.

SENATOR CHAMBERS: ...that mightily pollute the environment. Then we're suddenly not so concerned about improving the environment. Remember, I've told you all and I'll tell you again, I don't compartmentalize my life. All of these things affect everything else. The environment does not come into being only when you're talking about wildlife habitat in the context that Senator Schrock feels comfortable and his Game and Parks Commission feel comfortable. The environment is with us all the time. Since they got this money from the Nebraska Environmental Trust Fund, I don't want the state to take money and match it, put their, the state's money, on top of it. Where does the Environmental Trust Fund get its money? That's for others to say, but I know where Game and Parks is coming to get some money. They're coming to this Legislature.

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SENATOR JANSSEN: Time. Thank you, Senator Chambers. Senator Beutler.

SENATOR BEUTLER: Senator Janssen and members of the Legislature, as Senator Chambers well knows, I have some sympathy with him with regard to the Women's Commission but...and I appreciate the tools that he uses in order to try to get us to think about the Women's Commission. But I want to suggest that this particular tool and this particular device is not particularly related to the problems that he has discussed. In fact, I think the Game and Parks Commission has reached out to women and tried to keep their programs very minimal in terms of fees. But what should be stressed is that the Game and Parks Commission works with many, many organizations around the state, and the things that they work on are very much related to the practical side of life, even though they're oriented towards the long-term protection of the environment and habitat and the basic priorities of the commission as those priorities coalesce with the priorities of the Environmental Trust. But keep in mind now that we're dealing with a settlement with the states of Wyoming and Colorado on the water in the Platte Valley system. That agreement involves the federal government. That agreement involves, in a large way, wildlife interests, whether you like it or not. Whether you're a farmer or rancher or an urban environmentalist, the national consensus is that wildlife is going to be protected in certain ways and ultimately we're going to protect them with General Funds or we're going to protect them with other funds. And the Game and Parks Commission has taken a lead role with some of the NRDs, with some of the very practical rural interests in outstate to put together programs that have more than one effect, that have the effect of protecting wildlife but, at the same time, in some instances preclude the use of water, which is good for solving our water disputes, and puts aside land for habitat, which helps us in our negotiations over the use of the Platte River with other states. In the Republican Basin, the Environmental Trust and Game and Parks have worked on other habitat programs that have the effect, and will have the effect in the future, of facilitating the Republican River agreement not to use water above a certain amount. Game and Parks is our only large institution staffed to deal with these kinds of problems that can put together projects

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on a major scale, that have a major positive effect on the environment, on wildlife, and also on the things that we need to do because of our agreements with other states that affect farming and ranching. It's providing solutions to some of these problems, and it's not just in the area of protecting wildlife habitat or providing grasslands easements so that farmers can get money by virtue of having this easement and don't have to use water, but they've also...

SENATOR JANSSEN: One minute.

SENATOR BEUTLER: ...been involved in hydrological studies. Many of those studies have been necessary for and conducive to our negotiations in the Republican River area. So as much as I can understand Senator Chambers' inclination to strike out on another matter, I would suggest that this is not a particularly good object upon which to vent your feelings. This money is becoming more and more critical all the time to the overall solution for farmers and ranchers and environmentalists in key critical areas of the state, such as the Republican Basin and eventually, and more importantly, in the Platte River Basin. So there is a practical use,...

SENATOR JANSSEN: Time.

SENATOR BEUTLER: ...both short-term and long-term. Thank you.

SENATOR JANSSEN: Thank you, Senator Beutler. Senator Chambers, your light is on next, and this is your third time, Senator.

SENATOR CHAMBERS: Mr. President and members of the Legislature, I discussed the Women's Commission, but I'm serious about this Game and Parks amendment. They don't need this money, and if they're going to get it from the Environmental Trust Fund, they should not get it from the state. The Game and Parks Commission wields a lot of clout and power in this state. It's demonstrated by the fact that people feel they're untouchable. Every time they want a fee increase, they just about get it. The only one that stands between them and all these fee increases is me. I think they are greedy, they are grasping, they have become spoiled. They've had their way. And I'm going



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to offer my amendments and I'm going to discuss them, try to persuade enough of my colleagues to go along with me so that we may more prudently spend the state's money. I'd like to ask Senator Don Pederson a question.

SENATOR JANSSEN: Senator Pederson, will you respond?

SENATOR D. PEDERSON: I will.

SENATOR CHAMBERS: Senator Pederson, at the time Game and Parks was being considered by your Appropriations Committee, was any consideration given to the fact that they had been given this \$2,047,000 in grants by the Environmental Trust Fund? Was that taken into consideration?

SENATOR D. PEDERSON: We didn't try to balance that against any appropriation for them.

SENATOR CHAMBERS: But was that issue raised in the committee discussions?

SENATOR D. PEDERSON: To be honest, I don't remember the details of that particular matter.

SENATOR CHAMBERS: And people at that time may not have been aware of it. These things often are not taken into consideration. But when I got that mailing, the reason it came was not to sic me onto Game and Parks, but to mention the grants that they had handed out. And when I saw Game and Parks had several of them and got the lion's share of the money from the Environmental Trust Fund, I felt, and I still do, that the state ought not to give them money on top of this. So here's the question I would ask you. If the amendment that I'm offering were to be adopted, how would that harm what the Game and Parks Commission is doing? The reason I'm asking you, I don't see Senator Schrock.

SENATOR D. PEDERSON: He would be a better one to answer that, of course, because he's more involved directly with both Game and Parks and the Environmental Commission. But it's my understanding that what they wanted to do with this additional

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money, as you may call it, was with the school lands that are being acquired, to help develop some environmental use of that land. And so this would restrict their ability to carry out what would be a long-range program of improving the environment generally.

SENATOR CHAMBERS: If they're talking about school lands, what can be done with those school lands?

SENATOR D. PEDERSON: Well, it depends upon the land itself. Some land lends itself to improvement for environmental purposes, for setting aside for general improvement.

SENATOR CHAMBERS: Will this be lands that come into the possession of the outfit that controls school lands, or will school lands be transferred to the Game and Parks Commission, if you know?

SENATOR D. PEDERSON: I...it's my understanding that some of that land would be transferred to the Game and Parks and that it would then be utilized for the purpose I've mentioned.

SENATOR CHAMBERS: Why does Game and Parks accept money which...land which it doesn't have the money to properly take care of?

SENATOR D. PEDERSON: Well, I think that's one of the responsibilities that we tried to put on them is to do those things necessary to improve our lands, and...

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: ...in this respect it would have some benefit to the general public in doing so.

SENATOR CHAMBERS: Well, this money that I want to take can be used for other purposes then and the Game and Parks would have that money they got from the Environmental Trust Fund. Isn't that correct?

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SENATOR D. PEDERSON: That would be correct. But I think that, just like every big organization--and Game and Parks, as you know, is a very large organization--I think they feel that there are certain things that they can do that will improve our use of the land and our environment itself by developing those lands appropriately. And I think this would simply restrict some what they could do.

SENATOR CHAMBERS: But we don't know how those lands would be developed, do we?

SENATOR D. PEDERSON: No.

SENATOR CHAMBERS: And we don't know whether they'd be lands that all ordinary citizens can go to or whether they'd be developed for those who shoot guns, trap animals, and fish, primarily. We don't know that, do we?

SENATOR D. PEDERSON: I don't. That would have to be answered by somebody more knowledgeable about their intended use than me.

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Pederson.

SENATOR CUDABACK: Thank you. Thank you, Senator Chambers. (Visitors announced.) On with discussion of Chambers amendment, AM1447, Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I thought I'd talk a little bit about the \$350,000 that apparently is associated with Senator Chambers' amendment, although I'm not sure what the relationship is between this project and his amendment. But the \$350,000 project that he's speaking of does deal with the Board of Educational Lands and Funds, and that institution, you may recall, is constitutionally protected; that is, it is a true trust fund. And there have been two problems that historically the Legislature has discussed with regard to this 1.5 million acres of land out

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there that was originally set aside, I think by the federal government, as school lands for the state of Nebraska, and have been forever held in trust for the benefit of the school system. That is, as that property has been rented out to people for one reason...for one purpose or another, that income has gone into the school system and been one of the streams of revenue that supports the school system. And that can't be changed unless we change the constitution. Now the two problems are that, from the perspective of farmers and ranchers in many areas of the state who traditionally lease this land, they would like to see the lands sold. And that particular desire coalesces with the feeling of certain other people that have traditionally looked at this problem that maybe all of the portfolio of the trust ought not to be in land, but rather should be in common stocks or a varied portfolio that might overall have a better rate of return historically than a portfolio that was totally land. So pressure has been exerted by this Legislature over the last 20 years, as long as I have been here, almost every other year, to sell those lands and to reinvest the money in a varied portfolio and that would have...hopefully that will benefit. Now as they go into this process of selling, one of the things that facilitates the whole process is to understand, of all of those lands, which ones have particular environmental quality, so that the whole thing is facilitated by avoiding disagreements about whether certain lands should be sold or who they should be sold to, but rather we can work together to see that land that should be farmed goes to farmers, land that should be ranched goes to ranchers, and those few valuable pieces in the system that should be a heritage for all our children rather than the children of rural parents or urban parents, to see that those things are preserved. There are tracts of land, for example, in the Niobrara scenic river area. It makes sense there to protect those lands in a special way. And part of what this grant is all about, for example, is information systems. And they're doing this in cooperation with the Board of Educational Lands and Funds, and they're digitizing all of the tracts. And we're talking about 1.45 million acres. And it allows the commission to use those databases to analyze the environmental importance of these different pieces,...

SENATOR CUDABACK: One minute.

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SENATOR BEUTLER: ...and they're systematically going through it. And in the...in following the legislative directive to sell these lands back to farmers and ranchers generally are preserving out of it those things that are important. And they're trying to do that in a scientific way. And this particular Environmental Trust grant is facilitating that purpose, and it's for everybody's benefit. And I think that this would be not a good item to pick on in the budget. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senators wishing to discuss the Chambers amendment? Senator Chambers, there are no lights on. You're recognized to close on AM1447.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, every agency, every program of every agency, will have its supporters and adherents. To those supporters and adherents, that particular program is very important, and we know that. The reason a winnowing process occurs in the deliberations of the Appropriations Committee is because not everybody can get everything that they want. So decisions, arbitrary in many instances, are made. Some are allowed on board, others are kicked off. Senator Beutler has worked on these kind of issues for a long time, but that doesn't mean that I agree with how much money is being made available to Game and Parks. This amendment ought to be adopted. Whether it will or not remains to be seen, but Game and Parks needs to know that they have not escaped my clutches, and I will be looking at what they have in the mainline budget bill. If I had gotten this, I would have left Game and Parks alone. Senator Schrock and the Game and Parks people are probably confident that they can fight off every amendment that I would offer, and maybe they can. But what I don't get in reductions I'll get in time. Senator Schrock didn't want this bill...this amendment tied in with the Women's Commission. You all know that I tie in issues. But he didn't stand up and object yesterday when I was the only one who stood on this floor and strongly talked against that Regent on a bill that had nothing to do with the Regents. He didn't stand up there and say, Senator Chambers, this bill of Senator Schimek has nothing to do with the Regents; I don't know why you're

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tying these two together. See, people object to what I do when it's convenient for them to object. But when I'm on their side, I'm a great guy. I'm doing the dirty work that they know needs to be done, but which nobody on this floor will do. That discussion that I undertook yesterday needed to be made on the record so the public could be aware of why a proposal would be made by the Legislature to do something about that Regent. Who else will stand on this floor and talk about it? Nobody. After I would speak, and then somebody else would get up, they'd talk as though nothing had been said by me on that issue. But there were some secretly applauding and happy that I did it. I will do what I think is appropriate to be done, even though it would be a lot of fun for me to let some of these issues just ride along and watch the senators wimp out on them. But they know I'm not going to do that. Sometimes they like what I do because it's in line with what they want to see done. A lot of times they don't like it. So what I do and say is not based on what other people want or like, it's based on what I think is right for me to do. And I believe in doing something to help the women in this state, and I believe in helping them more than I believe in helping the Game and Parks Commission. When do they want to talk about the women? Well, Mother's Day is coming, you can talk about them on Mother's Day. That's not the way I operate. How do I get the senators' attention on issues that involve women? Talk about things that they are interested in like grass and trees and fish and fowl. Then I can make them pay attention to what I say about women. But let them think, oh, this is a women's issue, then they can go to sleep...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and disregard it like they disregard the women. So I have to use what I know it's going to take to get their attention, and that's what I'm going to do. I'm not going to go away. I'm not going to get tired, I'm not going to quit. And I don't care if you all cloture the budget and cloture every bill in here. That's not going to stop me from saying what I think needs to be said. It makes you all look like fools, makes you look weak, makes you look silly and simple because you don't have the wherewithal under your rules to do the things that need to be done on the floor of this Legislature. So you do as the

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majority always does, you use your numbers. You think I'm unaware of that? I was aware of the fact that I was outnumbered when I first came down here, and I still am outnumbered. But that doesn't mean I'm going to wimp out and run away and tuck my tail and whine and cry and say, there are more of them than me and they won't do what I want them to do, so I'm not going to try anymore. Huh. I fight harder the bigger the odds.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: And that was my third time?

SENATOR CUDABACK: That was your closing statement.

SENATOR CHAMBERS: Oh, it was. (Laugh) Okay. I guess you told me. I need to pay more attention. I'll ask for a call of the house.

SENATOR CUDABACK: Thank you, Senator Chambers. There's been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 18 ayes, 2 nays, to go under call, Mr. President.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. All unexcused senators please report to the Chamber. Senator Jensen, would you check in, please? Senator Hudkins, Senator Cornett, Senator Landis, Senator Connealy, Senator Bourne. Senator Cornett, Senator Landis. Senator Hudkins. Senator Cornett. I'm sorry, she's walking in the back door. All members are present or accounted for. The question before the body is the Chambers amendment, AM1447, to the committee amendments, AM1284 to LB424. All in favor vote aye; those opposed, nay. We're voting on adoption of the Chambers amendment, AM1447, to the Appropriations Committee amendment, AM1284. Have you all voted on the issue who care to? A record vote has been requested. Record please, Mr. Clerk.

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ASSISTANT CLERK: (Record vote read, Legislative Journal page 1367.) The vote is 1 aye, 19 nays, Mr. President, on the adoption of Senator Chambers' amendment.

SENATOR CUDABACK: The amendment was not adopted and I do raise the call. Mr. Clerk, motion.

ASSISTANT CLERK: Mr. President, a priority motion. Senator Chambers would move to reconsider the vote just taken on AM1447.

SENATOR CUDABACK: Senator Chambers, you're recognized to open on your reconsideration motion.

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. As I said, we're going to be here late night and this is the first one, I believe, so I want to get my share of that time, and I'm reconsidering the vote just taken which went against me. And the only reason I didn't vote yes, had I voted yes, I wouldn't be in a position to reconsider. These types of amendments may be fought off by the Appropriations Committee, but the fact that they're going to try to provide a solid phalanx will not deter me from offering my amendments. Now some of you are going to have amendments that you want to offer also. Whether I support them or not, I probably will use the opportunity to take some time off the clock. The budget does not belong to the Appropriations Committee. They probably are one of the hardest working committees, if not the hardest working committee, in the Legislature. They deal with issues that are not exciting. They require a great amount of attention to detail, and they do their work and present a budget to the body. I probably would agree with almost everything that they've done, but until I've had a chance to evaluate it, I cannot say. This issue that I'm bringing is here because I received, as I've stated, information from the Environmental Trust Fund. There are numerous sources of revenue tapped by the Game and Parks Commission. I don't know whether an ordinary person, as I would define that term, has been on the commission. I know that there has never been a majority of the commissioners falling into that category. That's why they get their way. Influential men dictate to the Legislature what is going to be



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done for the Game and Parks Commission. I used to get a chance to smile when my colleagues would call it not the Game and Parks Commission but the Games--plural--and Parks Commission. Sometimes the word "Games" was a more accurate description of what was being discussed. LB 424 is a bill that deals apparently with something not envisioned by the amendment that I'm offering. I'd like to ask Senator Don Pederson a question.

SENATOR CUDABACK: Senator Don Pederson, would you reply?

SENATOR D. PEDERSON: Yes, I'd be glad to.

SENATOR CHAMBERS: Senator Don Pederson, do you think...how many of these sections would be stand-alone sections, in your opinion?

SENATOR D. PEDERSON: To be honest, I've never looked at them as that because we tried very hard to not sectionalize what we were doing. We tried to look at the total picture and try and evaluate them in that light, not say, so much for this, so much for that.

SENATOR CHAMBERS: So you tried to do with this bill what I mentioned that I tried to do in my entire legislative activity of not compartmentalizing or pigeonholing various issues and taking them separately, but to try to show how they interact with each other.

SENATOR D. PEDERSON: That's right.

SENATOR CHAMBERS: That's the approach you took with this bill as a committee.

SENATOR D. PEDERSON: That's right.

SENATOR CHAMBERS: So on a small scale, what I talk about doing, as a legislator, is done routinely with some bills that come before the body. Would you agree?

SENATOR D. PEDERSON: I would agree.

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SENATOR CHAMBERS: But because I bring up issues that people don't like to deal with, there might be a negative reaction to mine, but not one to your approach, such as the one taken in LB 424. Would you agree?

SENATOR D. PEDERSON: I think that's right.

SENATOR CHAMBERS: Do you think the body as a whole would rather adopt your approach of kind of a panoramic view, taking in all of these issues and interconnecting them and looking at it as a whole composed of different parts? They'd rather look at it that way than to take them individually as I might choose to do?

SENATOR D. PEDERSON: I think that's true. And I'd like to make a comment in that respect.

SENATOR CHAMBERS: Sure.

SENATOR D. PEDERSON: I think...I've always had problems when we, as a committee, review the entire panorama of the various requests, the various agencies of the state, the functioning of our state government. There could always be someone that would come in and say, well, I think you should do this with this particular agency, but they don't have the same opportunity, frankly, that we do to look at the entire picture and see how that fits in the overall scheme. So I think it puts them at a disadvantage, Senator Chambers.

SENATOR CHAMBERS: Right. Would it surprise you if I speculated that the majority of senators have not read all the pages in LB 424, the amendment that the committee put together?

SENATOR D. PEDERSON: I wouldn't...

SENATOR CHAMBERS: Would you say that is more likely to be true or false?

SENATOR D. PEDERSON: Well, I think we know human nature, Senator Chambers, and I think that...generally, I think people tend to read those things in which they have a primary interest in them. They would peruse some of the other matters. I don't

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know that they would...it's kind of like if you're looking up somebody in the telephone directory, you don't just go all through all the names just see who is there. I mean, you check to see how it applies to those things that you have a primary concern about.

SENATOR CHAMBERS: (Laugh) Maybe if you were an undertaker you would want to see who all is there, just in case. That's all I will ask you, Senator Pederson. Thank you. Members of the Legislature, I'm not going to try to divide this bill. I said that in the beginning, and I will not get so irritated that I would go back on that and do it. There's another big bill. The big Billy Goat Gruff is coming. In case you all don't know that story, there was an ogre or a troll who lived under a bridge. He didn't want anybody coming across his bridge. There were some Billy Goats Gruff of various sizes. So a little bitty one went tripping across the bridge, and the troll said, "Who's that on my bridge?" And he said, "It is I, the littlest Billy Goat Gruff." And the troll said, "I'm going to come and eat you up." And to show how brotherhood worked in those days, he said, "Well, I'd just make a small little mouthful. Don't eat me up. I got a bigger brother. He's coming; eat him up." So it went like that through several Billy Goats Gruff. Then all of a sudden, there was a thundering on the bridge of the troll, and the troll thundered, "Who is that on my bridge?" And the answer came, "It is I, the biggest Billy Goat Gruff." And the troll said, "Well, I'm going to come and eat you up." And that troll said, "Well, let's get with it, bring it on." That's where Bush got that. He reads the kind of stories I'm telling you about. So the troll came up on the bridge, and the Big Billy Goat Gruff was possessed of very large, sharp pointed horns--this is a children's story, delightful little children's story that you read to them before they go to bed at night--skewered that troll, split him open, gutted him, spread his entrails all over the bridge and turned the water under the bridge blood red. And then the Big Billy Goat Gruff, dripping in blood, trotted on across the bridge into the meadow and the whole family ate the grass. Well, the Big Billy Goat Gruff and the troll are abroad in the land today, but which is which remains to be determined. This bill ordinarily would be of no great interest to me.

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SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Not because I haven't read anything in it. I scanned it so I'd have an idea of the things they're dealing with. But believe it or not, I have confidence in the committee when it comes to these kind of what you might call brick and mortar issues, although that's not exclusively what the bill deals with, but basically that's it. A thing either is or it is not, and there is not a lot of philosophy that has to go into this. Maybe your concept of how money ought to be spent and what kind of things ought to be preserved and so forth. But that doesn't go into what a person believes in terms of his or her religion, I don't think. If it had not been for this information I've gotten on Game and Parks, this amendment that I'm offering would not even be here. But I got that information, I could not ignore it, and I've giving the body a second chance to do the right thing. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on this reconsideration motion. (Visitors introduced.) Senator Schimek, on the Chambers motion.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. Senator Chambers, I have to tell you that I frankly thought there was going to be more discussion on this amendment, and I didn't really know how I wanted to vote on this amendment. But I'm not sure I understand the amendment either, so if you could help me?

SENATOR CUDABACK: Senator Chambers.

SENATOR SCHIMEK: First of all...excuse me.

SENATOR CUDABACK: Senator Chambers, would you respond?

SENATOR CHAMBERS: Yes.

SENATOR SCHIMEK: Thank you, Mr. President. First of all, it talks about the grant that the Game and Parks Commission got. And Senator Chambers, you and I both know that a lot of different agencies of government get grants. And you know, I'm

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a little bit concerned about starting down this road because then I'd have to say to myself, well, maybe we should be looking at all the other grants and awards that are out there and reducing other budgets accordingly. Would you like to respond to that general notion?

SENATOR CHAMBERS: Yes. Senator Schimek, if it were not for the fact that the Game and Parks Commission constitutes a huge agency, they get General Funds, they have Cash Funds, they get...they use fees, they get federal money, so they are in a unique position.

SENATOR SCHIMEK: But so does Health and Human Services.

SENATOR CHAMBERS: But Health and Human Services deals with human beings. We're dealing here...

SENATOR SCHIMEK: So does the University of Nebraska.

SENATOR CHAMBERS: Well, here's where I can make a difference.

SENATOR SCHIMEK: Okay.

SENATOR CHAMBERS: The Environmental Trust Fund does not make grants to HHSS.

SENATOR SCHIMEK: No.

SENATOR CHAMBERS: But this is a grant that...

SENATOR SCHIMEK: Well, I don't think they do.

SENATOR CHAMBERS: ...comes to Health and Human...I meant to Game and Parks, and they have plenty of other sources of revenue, so I'm going to let them keep this money which there's no way I would want to try to take anyway because it's a grant. It was given. But we don't have to put on top of that an equal amount in state money.

SENATOR SCHIMEK: Okay.

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SENATOR CHAMBERS: And I don't the state to give this money since this amount is being given by the trust, the Environmental Trust Fund.

SENATOR SCHIMEK: Is that, to your knowledge, needed for a match of any kind with these funds?

SENATOR CHAMBERS: No. They just get that money. And as the amendment says, it's a multiyear project, so rather than extending it out into future years when there's no guarantee, they might continue to get grants or grants for this specific amount. This amendment deals with this discrete, defined amount that they have, and it deals with it for the period of time that the grant would cover.

SENATOR SCHIMEK: Okay. Then I perhaps need to ask Senator Pederson about the Appropriations Committee intent, if I could.

SENATOR CHAMBERS: Sure, you have my permission. Senator Pederson, Senator Don, would you yield to questions from Senator...

SENATOR SCHIMEK: Mr. President, I'd like to ask...

SENATOR CUDABACK: Senator Pederson.

SENATOR D. PEDERSON: Someone directed me over here. Yes.

SENATOR SCHIMEK: Yes. Senator Pederson, I was just speaking with Senator Chambers about the funding that the Appropriations Committee gave to Game and Parks, additional funding, it's the way it's described in this amendment. Can you tell me what the \$597,699 is for the first year and the \$75,000 is for the second year?

SENATOR D. PEDERSON: I can't tell you. Those are Cash Funds, are they not? I'm sure they are.

SENATOR SCHIMEK: Well...yes.

SENATOR D. PEDERSON: Maybe Senator Beutler, who was following

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that a little more closely, would have an answer to that particular question. But I don't have it in front of me. I'd have to get a detail of that.

SENATOR SCHIMEK: Well, okay. I think it's a little confusing the way the amendment is written maybe, or just maybe I'm just thick-headed this morning. But I don't quite understand it. And Senator Beutler...thank you, Senator Pederson. May I ask Senator Beutler a question, Mr. President?

SENATOR CUDABACK: Senator Beutler. And one minute.

SENATOR SCHIMEK: Senator Beutler, do you know what that money is put in the budget for, for Game and Parks, off the top of your head? I know it's asking a lot.

SENATOR BEUTLER: Senator, and I'm sorry but I was off on the side talking to my staff. I missed the entire exchange between you and Senator Chambers, so I have no idea what you're talking about.

SENATOR SCHIMEK: Well, in his amendment it says the money...the additional funding by the Appropriations Committee of \$597,699 in 2006 and then \$75,000 in 2007. And that...my understanding, the Appropriations Committee gave additional funding, and I...first thing I wondered if it was related to the Environmental Trust Fund award and, secondly, if it wasn't, then what specifically was it used for? And then it goes on to say in this...

SENATOR CUDABACK: Time, Senator Schimek.

SENATOR SCHIMEK: ...amendment we should reduce the Cash Fund appropriation. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Further discussion, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Senator Schimek, here's the way this goes. The money that I'm going after came to my...the reason I'm offering this amendment is because the

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Environmental Trust Fund makes a mailing to detail for the senators the grants that they have given. When I saw how much money they had given to Game and Parks through grants, I felt that much money ought to be taken from the appropriation being made by the state to Game and Parks. The reason there's the breakdown in this fashion is because the money from the trust fund is for wildlife habitat and other environmental improvement purposes. The fund covers a period of time, more than one year. So rather than taking this \$2,047,000 in one piece, the percentage that the Game and Parks Commission would get from these grants in these two pieces would be the amount in two bites that would be subtracted from what the state is appropriating to Game and Parks, if that's clear at least how this is working. It's to take back from the money that is being appropriated by the state an amount the equivalent of what was given to Game and Parks by the Environmental Trust Fund. Yes, Senator Schimek, if you'd like to comment. Mr. President, may she?

SENATOR CUDABACK: Senator Schimek, would you?

SENATOR SCHIMEK: Thank you, Mr. President, Senator Chambers. So then your purpose would be to come back in the following biennium and to get another \$350,000, and you keep doing that until you reach the \$2,047,000, blah, blah, blah that...of the award?

SENATOR CHAMBERS: The part that we're dealing with is the amount, the discrete amount that has been made available to Game and Parks. Some money may not necessarily be forthcoming. So this amendment deals only with the amount that has actually been granted. And if you add \$75,000 to \$597,000, you'll see what that amount is. Beyond that in the future, nobody knows whether additional grants will be given or the amounts that would be contained therein. The Environmental Trust Fund is not bound like we are. You know, they could say next year we may give you this amount also, but then they may not.

SENATOR SCHIMEK: Well, I have a little bit better understanding, Senator Chambers, and I didn't vote for your amendment because I really didn't understand what you were



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trying to do here. And I don't...I still don't know if I'll vote for your amendment, but at least maybe I have a little bit better idea.

SENATOR CHAMBERS: Does the amendment seem sinister to you, or it's just making a move that you're not comfortable with?

SENATOR SCHIMEK: (Laugh) Can I plead the Fifth Amendment?

SENATOR CHAMBERS: Say it again?

SENATOR SCHIMEK: Can I plead the Fifth Amendment?

SENATOR CHAMBERS: You may. You may.

SENATOR SCHIMEK: (Laugh) And I'm just kidding.

SENATOR CHAMBERS: I understand. And so am I.

SENATOR SCHIMEK: Okay.

SENATOR CHAMBERS: Mr. President, to continue with what I was saying, I have been a thorn in the side of the Game and Parks Commission for a number of years because I will not just roll over and agree to all the fund increases, the fee increases, that they want to obtain. They like to try to make their argument by saying, well, in Kansas, this much money they get; in Missouri, this much money they get; in Colorado, this much money they get. Well, this Game and Parks Commission is in the state of Nebraska. Almost every other state has more population, the ones they mention, than the state of Nebraska.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: The cost of living is higher. The standard of living is probably higher. The sophistication level certainly is higher in some regards. So what I'm looking at is the thing that takes place in this state and not what's happening in another state. Just as people used to argue when black people would criticize the way things are that black people have more refrigerators than all the Eskimos in the world

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have. Well, that made no sense to me at all because we live in this country, and this is where we have shed our blood to try to make things better for everybody else but it hasn't worked that way for us. So the comparisons with what happen someplace else may be edifying and enlightening, but they're certainly not binding. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the motion to reconsider, Senator Schrock.

SENATOR SCHROCK: Mr. President and members of the Legislature, I appreciate what's going on here. I'm not quite sure that I want to get the Game and Parks mixed up with the Commission on the Status of Women. I have been a supporter of the Environmental Trust. That issue was on the ballot, and whether we would have a lottery or not and where the funds were going to go were dedicated to the Environmental Trust. The Environmental Trust has supported a lot of good projects out there, and they've supported some projects, I would acknowledge, that some people wonder, well, is this at a proper place for it or not. But they're projects that, if you took those issues to the Appropriations Committee, even though the Appropriations Committee might think they're important, probably have more pressing needs, and so it's nice to have an organization out there that is spending some money on the environment, spending some money on habitat. I do believe that farmers, ranchers, the hunter, the fisherman, the people who want to use trails, the people who camp, anybody involved in recreation, I think they've all benefited from the Environmental Trust. And I do think species that might be endangered have benefited from some of the projects they've done. So it's nice when agriculture can work in hand with the environment and things can be done in a productive, positive manner. So I would ask you again not to support this reconsideration motion. I would ask you to trust in what the Appropriations Committee has done and what the Environmental Trust has done, and support the projects that the Environmental Trust has looked at. They get far more requests for money than they can ever appropriate, and so they have to weigh what they think is the best use of their funds. And I don't know the exact number but I think they have three or four times more requests for money than they can appropriate. So

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there's a lot of needs out there, and most of them are good projects. And they have to sort this out. And I'm not sure we have the ability or the time to sort through them and spend the time to it that the Environmental Trust board has. Our state agencies are represented on there, and certainly the Game and Parks Commission...the Department of Game and Parks is a good place because they have the manpower and the ability to help implement a lot of these projects. So I'm very supportive of what the Game and Parks does. Most of you know that the Game and Parks facilities cumulatively are the number one tourist attraction in the state of Nebraska. They're a very valuable resource. And we're not a very good state when it comes to tourism, but if we can support the Game and Parks, if we can support these environmental projects, these projects that help our habitat, why, it's beneficial. So I would ask that you reject this motion to reconsider, that you would keep supporting what the Environmental Trust does, and I would thank you for your time.

SENATOR CUDABACK: Thank you, Senator Schrock. Further discussion, Senator Kremer.

SENATOR KREMER: Thank you, Senator Cudaback and members of the body. I guess I would just like to stand a little bit and echo what Senator Schrock had to say, and I would also say that the Environmental Trust, I think it's a fund that does some great job...a great job, and I know a lot of money went to NRDs for different projects. And I know sometimes they do use the money in areas that I would not use it for, but the Game and Parks are in a position to be able to utilize those funds and to do some things that need to be done for our environment. People get off on different tangents here all the time, so I'm going to do that a little bit, too. I just read here where the Texas farmers and ranchers sustained an estimated \$52 million annually to damage from the wild pig population. Maybe the Environmental Trust could put some money in to control the wild hogs that we discussed here a little bit. It says there's 2 million animals in Texas. So I just thought we'd let you know that we tried to get ahead of the game, and the damage that they do to our environment, maybe we could get the Environmental Trust Funds to help a little bit in that area. And the Game and Parks are

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working together on that, too. But really, I think it...basically, our Environmental Trust does a great job, and I'm glad the funds are there to help in education and environment, and I think that we can always give them some instructions on how we think they should be spent, too, or give them our ideas, because I think they're always looking for opportunities. And I know we had a bill a couple of years ago dealing with noxious weeds, and we set up a fund where money could be put in there for the Environmental Trust, and also then tap into some federal funds. And they were awarded money from that when they were...had the announcements out here in the Rotunda a couple of weeks ago, the amount of money that went to different projects, and our Department of Agriculture was one of those recipients that they could use these funds for controlling our noxious weeds. And I know even the Sierra Club and the Game and Parks and others are all cooperating in that. I always think it's best to be ahead of the game and be proactive rather than try to react to things that happen that we try to control after the damage is done. With that, I'd conclude my remarks. Thank you.

SENATOR CUDABACK: Thank you, Senator Kremer. Senator Chambers, there are no further lights on. I'll recognize you to close.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I have no doubt that there are reasons that the Game and Parks wants this money. I have no doubt that there are uses they can put the money to. Every agency could do that. Every other agency is not receiving grants on top of what the state will appropriate. Every other agency is not free to raise fees. And on top of that, every other agency is not getting those plus federal funds. Game and Parks has a type of constituency not among the ordinary citizens of this state, but at top of the big shots who call the shots and determine what kind of reception the proposals of Game and Parks will receive in this Legislature. They don't talk to me. They know it wouldn't do any good. They'd probably be afraid to anyway. They'd rather talk to the compliant individuals who just are like the bobble-head dolls. Without even hearing everything that's going to be said, their head is going up and down already, up and down already. Redd Foxx has been born into

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eternity, as the people euphemistically say when somebody has croaked. He was trying to get this group of people to clap their hands in unison, so he said, I want you to clap with me. And he would clap, not too rapidly, and pretty soon, instead of applauding, they had all kind of gotten together and they were bringing their hands together and there was one sound multiplied by the number of people who were there rather than a number of different sounds multiplied by the number of people. So instead of applauding at random, they were clapping, keeping time. So then as they clapped and they felt real good about themselves--and this is the way the big shots do the Legislature--Redd Foxx then said, okay, now just keep clapping, and they did it. (Singing) If you're stupid and you know it, clap your hands. And that's what they were doing. He kept saying, if you're stupid and you know it, clap your hands. And that's what they did, mindlessly, going along because they're not aware of what's being done to them. That brings me back to the bobble-head example. Heads just bobbing up and down when they find out what the big shots behind Game and Parks wants them to do. Why don't they listen? They don't have to listen. Theirs is not to reason why, theirs is just to do what they're told to do, and they will do it. That's the way a lot of things are done in this Legislature. Sometimes I'll look at my colleagues, Senator Mines...oh, he's got off the phone so I got to be careful what I say now. But if I were the chairperson of the insurance committee or whatever that committee is, that nefarious place from which all those nefarious bills come, I could bring a lot of things that people would agree with, and my job would be so much easier. That's the nature of the work that that committee does. And some of it is complex and people don't want to give the time to it. On the other hand, I have to deal with those issues that touch people where they live. And the people that I'm really interested in trying to help don't have much of a standing on this floor.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: So my work is a lot more difficult. But the more and the harder you work, the stronger you become in what it is that you're doing. The Game and Parks Commission may escape on this amendment, but I have a parallel one that will be

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offered on LB 425, the mainline budget bill. And I have a host of amendments I'm going to offer on LB 425, and we'll just sit back and see how things, I could say "unravel." But let me say, we'll sit back and see how they "unfold." The things that I believe in are the things that I'm going to push for. Many times a legislative body will exercise oversight by the way it budgets or appropriates money. If there's an agency which the Legislature is not pleased with, funds will be withdrawn, as with the Women's Commission.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: You've heard the closing on the motion to reconsider. All in favor of the motion to reconsider please vote aye; those opposed vote nay. Voting on the motion to reconsider. Have you all voted on the motion who care to? Please record, Mr. Clerk.

ASSISTANT CLERK: 3 ayes, 18 nays, on the motion to reconsider, Mr. President.

SENATOR CUDABACK: The motion was not successful. Mr. Clerk, anything further on the committee amendments?

ASSISTANT CLERK: Mr. President, I have nothing further to the committee amendments.

SENATOR CUDABACK: Discussion of the committee amendments? There are no lights on. Senator Pederson, you're recognized to close on AM1284. He waives closing. The question before the body is adoption of the committee amendments offered by the Appropriations Committee to LB 424. All in favor vote aye; opposed, nay. We're voting on adoption of the committee amendments. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 38 ayes, 0 nays, on the adoption of the Appropriations Committee amendment.

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SENATOR CUDABACK: The committee amendments are adopted. Mr. Clerk, motion on the desk.

ASSISTANT CLERK: Mr. President, Senator Chambers would move to indefinitely postpone LB 424.

SENATOR CUDABACK: Senator Pederson, did you wish to take up LB 424?

SENATOR D. PEDERSON: Yes.

SENATOR CUDABACK: Senator Chambers, to open on your motion to indefinitely postpone.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this, Senator Pederson, is a collegial, friendly motion. I don't intend to take this motion to a vote at the moment, but circumstances can alter cases. This is an important bill. I know it will not be voted to be indefinitely postponed, but that is a motion that can be made. I don't know how much time will be taken in discussing the advancement of the bill. But to show Senator Don Pederson how collegial I am, I'd like to ask him a question.

SENATOR CUDABACK: Senator Pederson, would you reply?

SENATOR D. PEDERSON: Yes.

SENATOR CHAMBERS: Senator Pederson, in saying that you would take up the motion today, that was signaling that you're prepared to fight for this bill. Is that true?

SENATOR D. PEDERSON: All the way, yes.

SENATOR CHAMBERS: Having declared that position and gotten yourself ready to fight, would it offend you if I withdrew the motion, having been intimidated by your pugnacity?

SENATOR D. PEDERSON: I can understand your reaction, but it would not offend me. (Laugh)

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SENATOR CHAMBERS: Mr. President. Mr. President?

SENATOR CUDABACK: Yes, Senator Chambers.

SENATOR CHAMBERS: In fear and trembling, I withdraw that motion.

SENATOR CUDABACK: The motion is withdrawn. Back to discussion of advancement of LB 424, Senator Chambers.

SENATOR CHAMBERS: Mr. President, all I'm going to do now is discuss this bill long enough to get us to the noon hour. Then Senator Pederson, I'm sure, will be able to move the bill on across the floor. And perhaps that is what some people think should have happened at the outset, but I don't. I don't feel that way. When there is an approach that ought to be taken by me, I'm going to take it. None of these bills is sacred as far as I'm concerned. If I have the opportunity to do nothing more than make a point, I shall do so. This bill ought to carry the amendment that I offered. Senator Schimek and I were talking about that amendment which was rejected, and I had not mentioned, other than at the very outset, that there is a companion amendment that would be offered on LB 425, and when you put the two together, they would equal the amount of money that had been given to Game and Parks by the Environmental Trust Fund, and it was necessary to take these two approaches to have done what needed to be done to get that money from Game and Parks that the state would be appropriating. The first part having fallen does not discourage me from going forward with the second part. Who knows what might happen when we get to the mainline budget? Some people may be so beaten down from this little discussion that I've been engaging in that they will throw up their hands and decide that no attempts ought to be made to amend LB 425. Now there's one amendment that Senator Foley is offering which I wouldn't mind if it didn't go anywhere. So if the bill can be clotured before we even consider Senator Foley's amendment, that's all right with me. I'm sure Senator Pederson and the Appropriations Committee would not mind that. If you vote for cloture, they would take a vote, and I'm talking about LB 425 now, not this bill. This one is going to move, if the world doesn't come to an end or if I don't



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croak, before noon today. But when you get to LB 425, you're going to have to think tactically and strategically. Are there any amendments you're interested in? Do you want to stop other amendments from being considered? Do you want to not have to discuss the bill in detail as I want to do when I divide the question? And if you don't want to face any of those contingencies, you ought to start putting pressure on Senator Don Pederson to offer a cloture motion. Then I'll have an opportunity to see how responsible the body is. Well, I'm going to have fun today and tomorrow and every day that we're on the budget bill. I'm not going to go away. However, Senator Pederson, Senator Don Pederson, may be willing to talk to me about some things, and we might be able to reach an accord, and maybe we won't. But however things turn out, I plan to be here on the floor. I'm not the one who said we should stay late at night. I've said I will. But it's a funny thing. When I look around and we're starting to go a little while, there are not many people on this floor. And I'm wondering, where are all those people who were whining about staying here? They don't stay on this floor. They disappear, from the top right on down to the bottom. But I'm here. You all sit down and I don't sit down. I'm not talking all the time, young Senator Erdman.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: And if you're not careful, I'm going to withdraw my endorsement of you and assure the defeat of Senator Smith by endorsing him. (Laugh) See, I know how to deal with these young whippersnappers. On this bill, I think I've said quite enough for today. So, Mr. President, thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Louden.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Since Senator Chambers said he was going to hang this thing up here until noon, I thought I'd help him out a little bit. I have somewhat of a question. On page 13 in this committee amendment, we're talking about the satellite system and the telecommunications in Nebraska and the money being appropriated. I think Senator Raikes mentioned earlier there, \$5.7 million for a couple of different years and that sort of

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thing. I guess my question is, and what I'm concerned about, is at the present time, with the satellite system we have in Nebraska with our educational works and what comes out of the Capitol here, that not everyone is able to receive those transmissions. If you don't live in some type of a town where there's cable service or anything, the transmission from the Capitol Building here and these proceedings can't be picked up on your smaller satellites. Now we do know that the signal is being sent up to the satellites because they're pulled back down in some of the towns out farther on the western end of the state. Scottsbluff, Alliance, and those places pick it up off of the satellites, so we know that the transmission is being sent up there. The problem is not everyone can receive it back down unless there's an area there that has a cable system in a town or something. So I would like to see, as we're working on this new transponders and some of this new satellite service, I would like to see something put in place that we could transmit the entire proceedings to the entire state of Nebraska. Your rural areas should be able to receive this information, such as it is, just as well as anyone in town. And for the most part, some of them can get it off of your Internet service, but at the time, the picture is of poor quality in various areas of the state. So as we go through this, whether I introduce an amendment later on on this on page...on Section 27...Agency 47, remains to be seen, but there's something here that I think it should be addressed as something that would help the entire state of Nebraska, help with our communications systems everywhere. And that was what I thought I would help Senator Chambers take up a few minutes of his time, and then we can go from there. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Loudon. Further discussion? Seeing no lights on, Senator Pederson, you're recognized, as Chairman of the Appropriations Committee, to close on LB 424.

SENATOR D. PEDERSON: Thank you, Mr. President. I think I'll use the same eloquent argument I did on the amendment--waive.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the closing. The question before the body is, shall LB 424

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advance to E & R Initial? All in favor vote aye; those opposed vote nay. The question before the body is advancement of LB 424 to E & R Initial. Have you all voted on advancement who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 34 ayes, 0 nays, on the motion to advance the bill, Mr. President.

SENATOR CUDABACK: LB 424 advances. Any items for the record, Mr. Clerk?

ASSISTANT CLERK: Mr. President, I do. Your Committee on Enrollment and Review reports the following bills to...reports LB 82 as correctly reengrossed; LB 161, LB 211, LB 401, LB 682 as correctly reengrossed; LB 753 as correctly engrossed. Senator Beutler has an amendment to LB 70 to be printed. That's all I have. (Legislative Journal page 1368.)

SENATOR CUDABACK: Thank you, Mr. Clerk.

ASSISTANT CLERK: Mr. President, I do have a priority motion. Senator Langemeier would move to recess until 1:30.

SENATOR CUDABACK: You've heard the motion of Senator Langemeier to recess until 1:30. All in favor of the motion say aye. Opposed, nay. We are recessed.

RECESS

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: (Recorder malfunction)...George W. Norris Legislative Chamber. Senators, the afternoon session is about to reconvene. Please check in. Members, please record your presence. Record please, Mr. Clerk.

ASSISTANT CLERK: There is a quorum present, Mr. President.

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SENATOR CUDABACK: Do you have any items for the record, Mr. Clerk?

ASSISTANT CLERK: I have none at this time.

SENATOR CUDABACK: We will now move on to...back to General File, budget bills. Mr. Clerk, LB 425.

ASSISTANT CLERK: Mr. President, LB 425 was introduced by the Speaker at the request of the Governor. (Read title.) The bill was read for the first time on January 13, referred to the Appropriations Committee. The committee has reported the bill to General File with committee amendments attached. (AM0521, Legislative Journal page 1334.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Pederson, Chairman of the Appropriations Committee, you're recognized to open on LB 425.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. On Tuesday, we had the opportunity to visit with many of you concerning the intention, kind of a briefing, primarily for this particular bill. And I was glad that so many of you were able to be there. However, for the record, I'd like to make a few comments that I think would be appropriate in connection with this. And let me begin by saying that when I ran for Chair of the Appropriations Committee, I had three goals. And those three had to do with helping those people that can't help themselves, providing appropriate educational opportunities for our citizens, and having economic opportunities so that after they get out of school there are jobs for them. So it's a multifaceted package that we have. I'm having a little trouble hearing, Mr. President. Could you rap the gavel?

SENATOR CUDABACK: Members, would you please show respect for the speaker and keep the buzz down.

SENATOR D. PEDERSON: Thank you, Mr. President. I'd like to review just for a moment what we did when we started. In

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January, as is always the process, we met with the Governor, our Appropriations Committee did, and we heard the outline of the Governor's budget. And you've all had that in your possession. And I think that what I'd like to say in regard to that is that most of the material that the Governor had available to him...or them, I guess I would have to say, because then it was Governor Johanns, Lieutenant Governor Heineman. And the information that they had available to them was collected over several months prior to the actual presentation of the budget. So to a certain extent, a lot of what the Governors were proposing to us was a bit of old news. So there were a number of things that the Governor did not have at hand at the time that the budget was prepared by the Governor's Office. There were a number of changes that took place. And we can...I'm seeing a lot of things in the paper, for example, about comparing our budget versus the Governor's budget. And I don't think that that's necessarily an apples and apples comparison, because there were so many changes that took place between the time that the Governor's budget was presented and the time that we're appearing on the floor here today with LB 425. So what I'd like to say in that regard is that, let's look at the comparisons in light of what actually is occurring today. And there's another comparison that I have a little bit of a problem with, and that's comparing this year's appropriation to prior years' appropriation, and the percentage increase. It...I was reminded, the idea could be, you know, merchants are always saying, how's business this year compared to last year? Well, they always compare, and they say, am I doing better, am I doing worse? But our situation was kind of like, well, the merchant says, business is a lot better this year; of course, my business burned down last year. And so we have somewhat that situation. For four years, we have been confronted with a downturn in the economy which has affected the dollars that were available and the monies that we could put into current programs. So accordingly, the percentage and the figures are skewed in that respect. So let's turn to where we are today. I would like to call your attention to the fact that we are now producing, with the agenda, a General Fund status report. And I draw your attention to that. I draw your attention to the fact that according to the one that was issued today, there is \$59,203,000 available in the current two years. And...but look down two

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years after that, and you will see it says almost \$100 million down in two years. And this is what we need to be thinking about, particularly the members who will be here after those of us who are...whose terms are up will be taking over. And you will see that you're going to have to be confronted with that downturn that's going to be taking place. It's natural. But also, one thing that I would like to advise you of. The status report that we have here is without any of the economic incentives that are being considered. And the figures that I see on what happens when probably the reasonable amount of that comes into effect, it will be over \$200 million down in two years after this, for the next biennium. So I think what we need to do is to consider what we have provided for in this budget. I'm very proud of the efforts of the Appropriations Committee in regard to this particular LB 425, because they have been a very conscientious committee that has worked diligently. They showed up for the meetings. They stayed with it. And although we met long hours, they continued to work with us. So we did several things that are different from what the Governor had proposed. And incidentally, there was one other...two other factors that took place since the Governor had presented his budget to us. We had two meetings of the Forecasting Board that remarkably changed the dynamics of the economy in the state. The February Forecast Board meeting produced an increase of \$83 million this biennium...this year, and 90 additional million after that. And then for the succeeding year, it would be \$110 million. So they made a substantial improvement in our financial picture. Now, those of us on the committee knew, because of all of the materials that we had been seeing, we knew the economy was a lot better. But it hadn't been reflected, and the Governor's proposal was based on an October forecast of last year. And we have a new Forecasting Board, and they, I think, are tuned in to what's going on in our state. So, the Governor didn't know that at the time that the budget was proposed. And the Governor didn't know that they were going to meet again...they knew he was going to...they were going to meet again April 28, but didn't know the dramatic results of that meeting, where \$40 million went to our cash reserve, and \$20 million added to each of the years. So that's now reflected in our status report. So that's how we get to the approximately \$60 million for the biennial budget that we are looking at. And

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that's what's going to have to provide for all of the A bills, and the economic package that's going to be proposed. So I think that we need to keep in mind, however, that any encroachments that we make on this should be very conservative. I'll tell you that our committee was very conservative when we met to look at the various needs. Because we were actually inundated with proposals from various needy groups, and they did need. But we had to pare down their needs to make a reasonable proposal. And that's what we did. So we didn't say, okay, whatever you want. We said, we'll do what we can. But we were not guided solely by the economic circumstances. We determined ahead of time that we were going to review the various requests and determine whether those requests were reasonable or not reasonable. And then we thought, if we don't have sufficient assets, in our opinion, to meet those needs, we would have to pare those down. But we wanted to treat the people who we met at first and the people who we met last all had the same opportunity to present their materials. Sometimes there is the fear that the people who get their last efforts made will be shortened because of the fact, you say, well, we're almost out of money, we can't do your deal. We treated them all, in a sense, virtually the same. We compared the total...

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: ...proposal. We have some differences with the basic things concerning the Governor's budget. The first one was the proposal concerning the higher education in the state. And people will say, you funded higher education with a lot of money this year. Well, it is a lot of money. But where is it in comparison? In 2001, we funded higher education, as far as the university was concerned, for example, with \$15 million more than we are providing in this budget this biennium. So I'll have to leave it up to you as to whether that's an exorbitant amount of money. It's 3.5 percent less than what we provided four years ago. So...and you have to couple in with that the fact that their healthcare needs, their insurance, the utilities, all those things, have increased. So it's really, in a sense, far more of a cut than 3.5 percent.

SENATOR CUDABACK: Time, Senator Pederson.

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SENATOR D. PEDERSON: Thank you.

SENATOR CUDABACK: There are committee amendments, as stated by the Clerk. As Chairman of the Appropriations Committee, Senator Pederson, you're recognized to open on AM0521.

SENATOR D. PEDERSON: Thank you, Mr. President. And I would say that since the amendment becomes the bill, I will just continue on with what I was saying. Other matters that were not considered were the fact...oh, and by the way, the Governor's proposal concerning higher education was a funding of actual needs of the university system, for example, at 74 percent of their actual needs; for the state colleges, 69 percent of their actual needs. Now, if you take those figures, what does that leave? We're providing these educations for our students. And yet, you can't just suddenly drop programs. So the only way that they could handle a financial situation such as that would be to increase the tuition. And because of the cuts that had been made before, you remember that the university has had to increase tuition by over 10 percent. And this would add on to that. And this is at a time when it's more and more difficult for our young people to go to the higher education. And in the state colleges, the same situation exists, except that there is less affluence in the state college area for being able to accept such tuition increases. So that's the trade-off, would be to do that. But the interesting thing is, we are able to do this, we are able to increase to the level that we have provided in LB 425, and still have benefit for our students to be able to enroll in that respect. Another difference that we are doing as far as the budget differences with the Governor is that the Governor did not fund special education. Now, special education is a complete different ball game. But what happens with special education? If we don't fund it, then the local school district has to fund it, and they have to fund it out of their current monies. And in addition to that, what happens, that affects the local taxpayers, because they have to come up with additional monies in order to defray that cost of special education. And what has happened then after the special education proposal, we would have a problem down the line. Because two years from now is when special education would hit



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again. And it would increase the TEEOSA school aid to make up for the difference. So we would get a double whammy in connection with special education. So actually, we need to fund special education. We determined that that's something that we should do, so we provided for it. We provided for 3 percent. The law provides that we can go up to 5 percent. And I know Senator Raikes has a proposal to do just that, to raise it to 5 percent. But in our budget, we have proposed 3 percent. And that would, of course, leave the difference for the local schools to pick up. So I think we'll have to govern by what you think in connection with that proposal. Another matter that came to us out of the blue on the forty-fifth day was the fact that, whoops, you owe 15 million extra dollars for retirement funds. The state of Nebraska, for primarily the people that are covered by the PERB board--and I'm speaking primarily of the public schools systems in the state--are on a defined benefit plan. What that means is that they will get their benefits irrespective of what the market is. So in this case, with the market having been down for at least two years, it impacted considerably the amount of money available to fund the teachers' retirement. So a cooperative effort was made, with the help of...a lot of help from Senator Stuhr, as the Retirement Chairman. And we were able to negotiate the first year of that retirement program in conjunction with the providers and the employees. So the first year is taken care of in that respect. But it was about \$15 million that we were going to have to pay. The Governor had no awareness of that. So these are just things that we have had to deal with since that time. And I think that I would characterize the budget that we have proposed to you as being both socially and educationally and economically sound. I hope you consider it that same way, because that's the effort that we made to try to accomplish those goals. So with that, I will close on the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the opening on the committee amendment by the Chairman of the committee. Mr. Clerk, motion on the desk.

ASSISTANT CLERK: Mr. President, the first amendment I have to the committee amendments is offered by Senator Foley, which is AM1330. Senator, I have a note you wish to withdraw this

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amendment and substitute AM1374. (Legislative Journal  
pages 1369-1370.)

SENATOR FOLEY: That is correct.

SENATOR CUDABACK: Without objection, so ordered. Senator  
Foley, to open on AM1374 to the committee amendment.

SENATOR FOLEY: Thank you very much, Mr. President, members.  
Good afternoon. A month ago, the Nebraska Department of Health  
and Human Services published an annual statistical report on  
abortions in the state of Nebraska. And the report showed that  
for the year 2004, the number of abortions performed in our  
state had actually declined about 10 percent from the prior  
year. I don't believe there's a single member of our  
Legislature who would be disappointed to know that the rate of  
abortion had declined from...in 2004, from the prior year. That  
has not always been the case. Some years it will go up a bit,  
and others it will go down. But in general, it seems to be  
trending down. And I think most of us greet that as good news.  
Despite the fact that it's down 10 percent, there were still  
about 3,600 abortions performed last year. And when you begin  
to dig into the statistics, both here in Nebraska and elsewhere  
across the country, what you find is, in about 90 percent of the  
cases, the reason cited by the woman seeking the abortion is  
reasons relating to socioeconomic pressure. And I respect the  
fact that in this legislative body, as in any legislative body  
throughout this country, there is a wide divergent range of  
views on this sensitive issue. We're not going to settle that  
this afternoon. We're not even going to try to settle that,  
because we can't and we know we can't settle that so quickly.  
But despite that divergence of view, it would seem to me that  
there are areas where we can find some common ground on this  
question. And as you study the abortion issue and you study the  
reasons why women are having abortions, it's always dangerous,  
of course, to generalize, but to the extent that I can  
generalize, what you will learn is that in many, many cases,  
perhaps the preponderance of cases, the women who are having  
abortions are young, they're unmarried, and they're poor. And  
when a woman is young, unmarried, and poor, and becomes  
pregnant, for her, that's a crisis. That is a very serious

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problem in her life. And all too often, she's prompted to seek an abortion as a quick fix. No woman in the state of Nebraska should ever feel the pressure of economics upon her that would lead her to an abortion clinic. We need to step forward and assist those women with some targeted programs that really reach her...reach out to her and say, my friend, you're not alone, there is help, and we want to stand with you through this. That's what this amendment is all about. A couple of months ago, Governor Heineman offered a program to the Appropriations Committee and had Chris Peterson and Nancy Montanez and Dr. Raymond come before the Appropriations Committee and present a proposal relating to a program that's been in existence now for a number of years in the state of Pennsylvania. It's a highly successful program, called Real Alternatives. And the concept at that time, a couple of months ago, was to try to import that model, that Pennsylvania model, into the state of Nebraska, and have the people from Pennsylvania actually run it for us. There were some problems with it, and it met with some resistance. Because we're all aware that there are nonprofit groups here in the state that are providing services to pregnant women on a need-based arrangement. And much of the thinking at the time was that we already know how to do this and we're already doing it to some extent. Maybe not to...as much as we'd like to see. But it's already here in Nebraska, and we don't need people from Pennsylvania teaching us how to do something that we're already doing. So there was resistance on that level. I understand that. Governor proposed at that time that \$600,000 in federal funding from a program called TANF, T-A-N-F, Temporary Assistance for Needy Families, be used to fund that endeavor. And all the...although the Appropriations Committee turned down that particular proposal, what I bring forward to you today is a rewrite of that concept. Under the concept that I'm offering to you today, the Department of Health and Human Services would conduct a competitive solicitation, and would allow not-for-profit groups to step forward and submit a proposal on how they could serve needy women who are pregnant. It's targeted assistance. It might mean a free Papp...a free pregnancy test, free ultrasound. It might mean enrollment in one of their parenting classes. As a matter of fact, HHS is already directing many women to these centers for parenting classes. It might mean the provision of nutritional

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information, or general health information, information about adoption, and certainly, a lot of information and connection to other programs that can assist that woman in a very direct, material way, to take some of that financial stress off of her, to address her immediate needs, so that the pressure is off and she can start to think through where she wants to go with her life. TANF is an interesting program. It's a federal program. Let me just read for you a little bit from the United States Health and Human Services Department regarding TANF. Under the TANF program, each state must submit a plan to the U.S. Secretary of Health and Human Services that outlines how it intends to conduct the program that can provide cash aid to needy families or families that are expecting children, and provides parents with job preparation, work, and support services. States may determine what benefit levels to set and what categories of families are eligible. States have the flexibility to design and operate a program that best matches their residents' needs, and help families gain and maintain self-sufficiency. Under the amendment that I'm proposing, the grantees would step forward and submit proposals to the Nebraska Department of Health and Human Services, and they would outline a program, a pilot program, for targeting assistance to needy women who are pregnant or believe that they may be pregnant. And in their proposals, they would identify what resources they could bring to the table on this, because there are private resources that are funding these not-for-profit entities. And we can match their private resources with the federal dollars, and really ramp up the range of services that we can provide to needy women who are pregnant. The proposal that I'm offering to you today, the amendment that I'm offering today, does not in any way tamper with the fine work of our Appropriations Committee. The budget package that they've submitted to us stands intact. I don't tamper with it. Governor Heineman has identified \$500,000 in additional TANF funding that's available to the state of Nebraska, and we can use it for this purpose. Other states are using TANF funding for this purpose. And I deeply appreciate the Governor's leadership in finding those funds and supporting this effort. I think this is a meaningful way to assist women who are pregnant, to help take some of the financial pressure off of them, to assist them to bring their children to term, and if it's their decision, to place the

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children for adoption. And I'd ask for your favorable consideration of AM1374. Thank you, Mr. President.

SENATOR CUDABACK: You've heard the opening on AM1374, offered by Senator Foley. (Visitors introduced.) On with discussion of the Foley amendment. Senator Thompson, followed by Senators Chambers, Don Pederson, Schimek, Howard, Combs, Stuthman, and Kruse. Senator Thompson.

SENATOR THOMPSON: Thank you, Mr. President, members of the body. I've been talking with Senator Foley this morning about the technical aspects of this bill. And on its surface, when you read it, I guess it comes not too far from some of the things that I've worked on over the years. And so I don't come with animosity to helping pregnant women. In fact, when I was a county commissioner, I chaired the health committee of the Sarpy County Board, we did a needs assessment of health in Sarpy County, and found that the top...one of the top needs was services for pregnant and parenting teens. And I worked with school nurses, and we started a program, school-based for pregnant and parenting teens in the county. So I don't come with any concern about providing services to pregnant women. My concern is that the bill is drafted to the general TANF money, not to the bonus money. And I have a concern about the appropriations process, because we provide an appropriation based on what is recommended by the department for the needs for TANF...I mean, not TANF, but we call it ADC, Aid to Dependent Children. And I don't think we should tamper with that amount. We haven't done that historically, or amended from the floor to use those funds for another purpose. I've talked with Senator Foley. I believe the bill should be...or, the amendment should be to the bonus money. The bonus money at the beginning of the legislative process...and to give you a little information about that, I'm sure Senator Pederson is going to talk about that. This money was to be directed toward improving the system, equipment purchases, training, so that we can continue to receive the bonus money as a state. We've used that to offset the General Fund. It's a fairly recent thing. But we haven't had money there for other purposes until this year, when this other program was suggested. And as Senator Foley said, because it was for a specific program, without a bid process, it did run

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into concerns of the committee. But I wanted to mention a few other concerns that I have, the way the bill is written. And during the three times that I'll get to speak on this, I'm going to ask some questions of Senator Jensen, who was here during the welfare reform debate. Because the way the bill is written, you could...or, the amendment is written, it would serve women who become pregnant while on our state assistance program with additional assistance. And statute already restricts--and I will, when I have more time, read that specific statute--restricts the amount of money a family can get if they have additional children while they're on the state's program. And the public philosophy and the public policy of the state is not to provide funding for those families. Also, one of the purposes of this bonus money is to discourage...or, is to encourage families...let me tell you the four purposes of this money. I think Senator Foley is probably coming in under the first one, although it's a...his issues are abortion, as he frames it. But I think the amendment, if you read it, doesn't really refer to abortion; it refers to services for pregnant women. So you could come at this from a number of angles. It's assisting needy families so that children can be cared for in their own homes. That's the first purpose. Second, reducing the dependency of needy parents by promoting job preparation, work, and marriage. Preventing out-of-wedlock pregnancies, and encouraging the formation and maintenance of two-parent families. Those are the purposes you can use this bonus money for. I think we've got...if we pass this...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...as it is written, it is written in extremely general terms. It says it's for pregnant women or women who think they...or, suspect they are pregnant. And we have very clearly in statute defined who can be served under this section of law, who is pregnant. We currently provide maintenance services for women who are pregnant. In other words, a cash monthly for their maintenance of their life, I guess, as we do with other people in the...in our welfare program. We provide medical services, and we provide nutrition services. We also have laws that were passed before I came here in 1994 and '96 that provide similar support services to the one

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that Senator Foley is mentioning through case managers. But these are restricted to women who are pregnant, not who suspect they are pregnant. And I think we're going to run into some statutory problems.

SENATOR CUDABACK: Time, Senator Thompson.

SENATOR THOMPSON: Thank you.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator Don Pederson, followed by Senator Schimek.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. Senator Thompson has already mentioned the fact that this proposal, in a different form, came to our Appropriations Committee. And we had a lot of problems with this. In the first place, we did not like the idea of turning to a Pennsylvania company to put up billboards and things of that nature and to have an 800 number and so forth. We just haven't had much luck with that kind of a program in Nebraska. But this isn't like we don't have programs that do this same service in the state of Nebraska already. But what bothered us is that we decided...now, Senator Howard had presented to us a proposal that had to do with dealing with families and home visitation. And we felt that if you look at the four purposes for which TANF funds are to be used, that certainly seemed to fit in. And we have, apparently, about \$900,000 in this TANF program, in this bonus fund. And much of that money is to be used to engender additional grants for the proposals. But we provided \$400,000 this biennium for the home visitation program, and we...and made an intent effort for the next biennium to use \$200,000 in the first year of that biennium. And so that would leave, in this current year, out of the \$900,000, it would leave \$500,000. And it's that \$500,000 that Senator Foley is looking to for his particular program. And I don't doubt that we have problems in connection with young people becoming pregnant. And...but I think we have other vehicles through which that situation is attended to. And I just hate to use the remainder of the TANF money for this purpose at this time. So I would urge that we think carefully before we would decide to adopt this amendment. Thank you.

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SENATOR CUDABACK: Thank you, Senator Pederson. Senator Schimek.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. If I might, I'd like to ask Senator Thompson a question, to follow up on some of the things that she was talking about.

SENATOR CUDABACK: Senator Thompson, would you yield to a question?

SENATOR THOMPSON: Yes.

SENATOR SCHIMEK: Thank you, Senator Thompson. As I understood your explanation--and you tell me if I'm wrong--these funds could be used only, then, for women who are pregnant and are on ADC, right? Or, not...they're not on ADC; they're on TANF.

SENATOR THOMPSON: Maybe Senator Foley would be...and I've discussed this. So, as I see his amendment--and he may see it differently, but I don't think we do--he's amending a section of the budget bill...

SENATOR SCHIMEK: Right.

SENATOR THOMPSON: ...that deals with the money that comes from the federal government.

SENATOR SCHIMEK: Right.

SENATOR THOMPSON: And his view is that because we're amending this section, any person who would be served by this section would already have to be served under the criteria of our current statute.

SENATOR SCHIMEK: Okay.

SENATOR THOMPSON: I'm not sure that I read it the same way.

SENATOR SCHIMEK: Okay. Then I'll follow up with him,...



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SENATOR THOMPSON: Okay.

SENATOR SCHIMEK: ...if I might. Thank you. And if I could ask a question or two of Senator Foley?

SENATOR CUDABACK: Yes, you may. Senator Foley, would you respond?

SENATOR FOLEY: Yes.

SENATOR SCHIMEK: So then would you tell...Senator Foley, would you tell me what you intend by this language?

SENATOR FOLEY: Right. Here's how I see it working. Our role here is to appropriate the funds with some direction as to how they're to be used. We direct the funds to HHS, presuming the amendment is attached. HHS then has the funds and the direction from us to start to construct a competitive solicitation. They would publish that solicitation in conformity with federal guidelines, and invite parties to step forward and offer proposals as to how they would perform the services.

SENATOR SCHIMEK: I understand that. But what I don't understand is who would be served by these programs.

SENATOR FOLEY: This program, by virtue of the language that I've offered here, is directed toward a need-based arrangement to pregnant women and women who believe they may be pregnant. That's...it's a targeted program for pregnant women.

SENATOR SCHIMEK: So it could be any woman in the state of Nebraska who believes she's pregnant, or...

SENATOR FOLEY: Is pregnant.

SENATOR SCHIMEK: ...is pregnant.

SENATOR FOLEY: Is pregnant or believes...now,...

SENATOR SCHIMEK: They wouldn't have to be receiving welfare already, or they wouldn't have to, you know, have children

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already? This could be a teenage girl?

SENATOR FOLEY: It's a...this...TANF money is a need-based program. And HHS is going to have to specify in its contract with the grantee what the guidelines are on that need-based arrangement.

SENATOR SCHIMEK: Well, I'm not sure I know how I feel about this. I'm naturally supportive of the idea that we try to provide this assistance to people who are needy. But I also think there...you know, I just got something across my desk today that talked about the fact that Nebraska ranks 50th in teen birth rate declines. In other words, of all the states, our teen rate is declining less than any other state. And the national average is 30 percent, according to this document, and in Nebraska it's only 12.7 percent. And I think we should be doing more to prevent some of these pregnancies. And I'm sure you might agree with that as well. We probably...where we wouldn't agree on is what the program should be to try to help prevent. But I don't know how I feel about this. I think your goal is worthy. But I don't know what the criteria would be. I just don't...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...know enough about what this program would be to know if I want to support this or not. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Howard, followed by Senator Combs, on AM1374.

SENATOR HOWARD: Thank you, Mr. President and members of the body. Since Senator Foley has come to me to discuss this amendment, I've seriously considered this. And I have some information that I think will be of help to the body. Nebraska is very, very fortunate in that we have many services to address the issues of pregnancy, unwed pregnancy, unexpected pregnancy, and also the issue of adoption of infants and children. And I made a...just a brief list of these quickly. Nebraska Children's Home, Child Saving Institute, Lutheran Family Services, Catholic Charities, Christ Child, Emergency Pregnancy

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Services. And these are traditional, Nebraska-based agencies that have reached out, for not only years, but in many cases decades, Nebraska Children's Home being one that comes to my mind, to provide this service. And this is a nonjudgmental, this is a counseling, this is a decision-making service, where the parent is involved in every step of the process. There's no particular direction; it's supportive. These services are not isolated to the Omaha area. These are across the state. Nebraska Children's Home has many offices throughout Nebraska. What I am saying, in a nutshell, is that these services are in existence. These are Nebraska-based agencies. This has been going on for, actually, as long as I can remember, and as long as I've been doing social work, certainly. I have every faith that these agencies are available to all women should they choose to go to them. There is no reason...every night when I drive into Omaha, I pass a very large billboard on 60th and Center Street, saying, Nebraska Children's Home is available for pregnancy planning, pregnancy, pregnancy therapy...(laugh) not therapy, I'm sorry, but pregnancy counseling, any needs involved with that service. And I'm really questioning that we need to fund a start-up program, or that we need to invite programs from other locales to come into Nebraska, when in fact we've been doing an excellent job in providing the service. Frankly, we're long in services to the mother, to the unmarried, to the pregnancy needs; we're short on services to meet the actual need of the child in the home. And this is why I'm so dedicated to the issue of early intervention with the visiting nurses service. And I thank you for listening. I'd like to offer the remainder of my time to Senator Thompson.

SENATOR CUDABACK: Senator Thompson, you have about two, twenty-two.

SENATOR THOMPSON: Thank you, Senator Howard. And I appreciate your sharing your experience with this. Again, the...at the beginning of the session, when we got our information as an Appropriations Committee, this money was going to be used for equipment improvement, training, things that we need to do to make our program work well enough so that we get additional federal money and the bonus money. So if we take it from...I mean, it's not like it's just sitting around. We're making

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conscious decision to move it. And I also think...remember, this is intent language in the budget bill. And I've told Senator Foley, you know, I'm very supportive of services for pregnant women, but I also worry about all the other statutory language that we already have. This is not statutory language, but we have other things already in place in the state, and we are kind of treading out into a new area that I don't know how we'll continue to fund it if...it's clearly a one-shot kind of deal, and maybe it would be better to invest in the things that we need to do to improve the way the system works technically,...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...than to do this. But I'm going to, on my next time, cite several pieces of law that I think are going to make this confusing. In his amendment, it just says to set up an assistance program. If you look at it carefully, there's just one sentence of what this is. And I think, before we pass this, we need to figure out what it is that this program will do. In the second part of his amendment, it qualifies whomever applies for the grant as having to have done a number of things, some of which are already provided for by our own statute in another section. So this is kind of like doubling up on that. And I'm just...I'm concerned about the technical bill. Remember, it's not written...it's written to the general grant, not to the bonus money of the grant. That needs to be corrected. And we also need to make sure that we aren't setting ourselves up--and this is going to sound...

SENATOR CUDABACK: Time, Senator Thompson.

SENATOR THOMPSON: ...kind of crass...sorry. And I'll get to the crass part.

SENATOR CUDABACK: Thank you, Senator Thompson and Senator Howard. Senator Combs, followed by Senator Stuthman and others.

SENATOR COMBS: Thank you, Mr. President and members of the body. I wonder if Senator Foley would yield to a question, please?

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SENATOR CUDABACK: Senator Foley, would you respond to a question from Senator Combs?

SENATOR FOLEY: Yes, thank you.

SENATOR COMBS: Senator Howard had mentioned some agencies that provide good services, that are in Nebraska. Would these agencies be eligible to apply for this funding to be the umbrella program for their fellow programs?

SENATOR FOLEY: Yes, they would. And that was the key point that we faced when the Governor first proposed this. It was tied in to a Pennsylvania model. And we backed off of that, and said, no, no, no, let's do a competitive solicitation. So any of the groups in Nebraska who are already doing these kinds of services can step forward and put in their proposal to do this kind of work.

SENATOR COMBS: Okay. So I guess I'm asking a question you don't know the answer to at this point. But with the knowledge you have now, do you foresee this grant going to an outsider, as opposed to someone already providing the services in Nebraska? Or is that not...are you not able to answer that?

SENATOR FOLEY: Well, it's a fair question. I don't know who will bid. I'm operating under the presumption that this is going to be spent in Nebraska by a group already in Nebraska. Because they're going to have unique knowledge of our state, and they're already in the state operating, performing services to women in Nebraska.

SENATOR COMBS: Right. Yeah. And that's an important point that Senator Howard brought up. And thank you, Senator Foley. Because the women here of Nebraska have come to trust them. A lot of what goes on with pregnant women, new mothers, is through word of mouth, that they talk among themselves. And the first person, who do you go to? It's not always your mom. It's a friend or a trusted adult or someone who is working perhaps in some of these programs that have already been established. And I got a letter from Right to Life that was explaining about the

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program. It said, no one entity coordinates the provision of services currently, and ensures that women who need assistance are receiving it. An umbrella group utilizing those TANF funds would work to ensure that needy pregnant women would receive counseling, maternal and infant clothing, food and supplies, and awareness of other entities in her community which could provide support through her child's first year of life. And as Senator Howard mentioned, that is...we really need early childhood programs. And if this would carry through the first year of life, however we decide to tweak it, as Senator Thompson has suggested, to make it amenable and workable, I think would be a benefit, and I would support that. It says, because federal dollars are involved, any entity receiving the grant to set up this network would not be allowed to proselytize any religious viewpoint in counseling services. So again, that's religion-neutral. And that is good, because, you know, that would be in compliance with what we would be qualifying to get the money with. I would like to give a note. I noticed the last...in reading my gadget here, the last sentence says, the pilot program shall not refer for, perform, or counsel for abortions, and shall be physically and financially separate from any program that does so. And just a side note. And I don't want to get into that particular debate on the floor. But I did...when I was in college, I was married very young, 18, so I was married but with no children and going to college, as was my best friend in college. And she was married also. And she had an abortion. And it was...she really...she did it very quickly, because the baby she had...was pregnant with, was not from her husband. And then later on, after we graduated, several years later, I had my daughter Mindy. And we continued to correspond, even though I lived in another state. And I would send her pictures of Mindy. And Jackie (phonetic) would write back and say, you know, my little baby would be five years older than Mindy right now. I just wonder what he or she would have looked like. And I think about that baby...

SENATOR CUDABACK: One minute.

SENATOR COMBS: ...every time I see Mindy. And I think about how we could have, instead of just visiting each other when we go back, our children could have played together. And that was

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a heartache that Jackie had expressed to me all throughout our friendship. And I'm sure, Mindy now will be 27 this year, and that's been, you know, 27 years of Jackie seeing Mindy and wondering what her little baby would have been like. And we don't always hear that...about that. So I think that it's something, when we do talk about abortions and promoting one over the other, it's a heartbreak that's not often told, is the actual personal stress it causes in people's lives. But I do support the amendment. I support what it's trying to do. And I also support other people's input on how it needs to be tweaked to get done and put into effect. That's not my forte. I trust other people to do that. But I do support what the money will be used for. Thank you.

SENATOR CUDABACK: Thank you, Senator Combs. Senator Stuthman, followed by Senator Kruse and others.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I am personally concerned with the welfare and the health of women, young women, poor women, and needy women that come into problems in their life at a young age. Too many times, I've seen these young individuals come home, discuss their problems with their parents. Situations like this create a real troublesome time in their life. Too many times, I've seen young teenage pregnant women being kicked out of their home. Where do these people go? They're out to the wolves. They're probably get addicted to drugs. That's one thing we don't want to happen. And that's what I'm really concerned about. I'm concerned about these individuals. And I realistically think that we should try to utilize these \$250,000. And I hope we can. The only thing in this amendment that does concern me just a little bit--and I hope we can get this worked out, so that we can utilize these dollars--is, part of it, it says, this money is used for a pilot program. I really don't know whether we should establish another pilot program. Because, you know, we have programs that need assistance, you know, to shore up, get additional funding for, so we can help people in programs that we already have. And that would be my interpretation of what it should be utilized for, so we can help more people. Yes, I do know that there is a need for, you know, an RFP process to utilize these dollars. But the fact of creating a pilot

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program, I am never very much in favor of starting something up again, when we have, you know, all of the spokes in the wheel, you know, hopefully, turning, and that we can maybe just add one more little layer on a couple of those spokes to help some individuals. So that is where I'm coming. I hope we can...I'm in support of this amendment. I'm a little bit concerned about creating another pilot program. I am never very much, you know, in favor of starting something, again, unless it's a total different direction that will realistically benefit another group of people and become a reality. But I think, let's try to utilize these dollars, you know, if they're available. Because they are there. They have been appropriated on the federal level. We just as well use them. So let's take advantage of that. But let's also be concerned about, you know, starting something that in a year or two that we might not be able to continue to fund, or have to get funding from another source to continue that program. Because I think we have a program. And let's work to improve that. If we can help more of these young women, you know, to become young mothers, to be an asset to the community, I think then it's worth it. I'll give the...no, I won't give the balance of my time back to the Chair, because I'm going to keep the rest of it. But you can take over now, Senator Cunningham.

SENATOR CUDABACK: Did you give it to Senator Cunningham, Senator Stuthman?

SENATOR STUTHMAN: No, I'm sorry. Cudaback is what I wanted to give it. I get you two guys mixed up a little bit. I should remember a little bit more that Cunningham is the "candy man," and you're the "chip man," so.

SENATOR CUDABACK: You're pardoned. Senator Kruse, followed by Senator Chambers.

SENATOR KRUSE: (Laugh) Thank you, Mr. Cudaback and members. I stand reluctantly to oppose the amendment. I'm reluctant, because I certainly favor what is being proposed within it. To get...cut right to the chase, we're already doing these things. We've got good programs in place. We don't need another program. And this money is not just readily available, as the



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prior speaker indicated. It's being taken away from something else. Now, we had \$600,000 that was readily available. It's a bonus TANF money. If you want to look in your big book that you received as a gift this last week, on page 159, at the bottom of the page is how we are using the first \$400,000 of the \$600,000. And there you will also see, following the modified bullets, the purposes that...to which TANF money is limited. I don't see within them the present purpose of this amendment. The closest would be preventing out-of-wedlock pregnancies, and that's really not what it's about. Encouraging the formation and maintenance of two-parent families, it's really not targeting for that. Our use of it is in the last paragraph there. We've talked about this, very carefully said this should be for home visitation. And I've already stated to the floor how surprised and impressed our daughter was when someone came to her place and said, you have a baby, and would you like to talk about it? Now, that can change things in families, when you're doing that consistently. And that's what we suggest applying this money to, a very modest amount. I have hesitation--this is just almost to the side, but it should be said--I have hesitation about the abortion component, because that is a religious component, and skews the counseling that is to be offered. I am a lifetime counselor. And one thing we always watch for, no matter how good the thoughts of the person are, is when somebody's counseling is skewed to a particular point of view, in this case, limited in what they can do in response. As I say, that's not really the heart of it. The heart of it is that TANF money is to be used, and now is used, for the four purposes you see listed at the bottom of one page...page 159. They are really needed for that. Assisting two-parent families, reducing the dependency of needy families by promoting job preparation, work, and marriage. That's what this money is for. And I really don't think we should be taking away from that. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Kruse. Senator Chambers, by...followed by Senator Thompson.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Foley a few questions.

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SENATOR CUDABACK: Senator Foley, would you respond to a question from Senator Chambers?

SENATOR FOLEY: Yes, I would. Thank you.

SENATOR CHAMBERS: Senator Foley, based on your language, this group could...this outfit could counsel against abortion, couldn't it?

SENATOR FOLEY: There's nothing in this language that would prohibit that, Senator.

SENATOR CHAMBERS: Now, do you believe that if a woman's life is at stake she should be able to have an abortion?

SENATOR FOLEY: Senator, that...if you want to get...I don't know how much time you want to give me on that question.

SENATOR CHAMBERS: No, no, that's a yes or no question.

SENATOR FOLEY: Well, it really isn't, Senator. And maybe I...

SENATOR CHAMBERS: Okay. So you're not sure what you do...

SENATOR FOLEY: ...ought to just address it on my own...maybe I ought to address it on my own time.

SENATOR CHAMBERS: If a woman's health is at stake, do you think she should be able to have an abortion?

SENATOR FOLEY: Senator, we're on your time. I don't know how much you want to give me. But there is (inaudible)...

SENATOR CHAMBERS: Thank you. Members of the Legislature, this is skewed one direction. And Senator Foley probably has an organization in mind. I'm going to bring it out in the open as to what this is. If a woman is pregnant and she goes to Senator Foley's outfit and her life is at stake, they could not advise this woman that an abortion would be in her best interest to save her life. They are not able to give that kind of counseling. That should be available. Abortion is legal. This

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is a religion-skewed approach that Senator Foley is taking. Now, if you read the language carefully, when you get to line 21 on page 1, the pilot program shall not refer for, perform, or counsel for abortions. Counsel for abortions? You mean counsel regarding abortions? If you're not counseling for abortions, or advocating them, you can nevertheless counsel regarding them.

SENATOR FOLEY: Senator?

SENATOR CHAMBERS: I'm not ask you, Senator Foley. It's my time. Members of the Legislature, this is poorly written. And when a man cannot admit what his position is on a question such as this, it lets you know what we're dealing with here. But he can't bring himself to admit it. If it's about abortion, say it is. The last language in this proposal deals specifically with abortion. He brings them in. Let this be one of those proposals, if it's going to be done, to just counsel women who are pregnant, needy, and otherwise meet the criteria. When they come, if they say, I want to get an abortion, and you discuss with them alternatives, and they say, I still want an abortion, under Senator Foley's plan, they'd have to say, well, I can't help you. And they say, well, where can I go? I can't help you. So then you're set here to counsel me, but you can't tell me any information? I can't help you. Just like Senator Foley can't answer. Now, people on the floor may be reluctant to deal with this issue in terms of what it is. I think it was a political ploy by the Governor. He knew that Mr. Osborne was considering running. This is to solidify his position with a certain narrow constituency. Senator Foley is well aware of the people in the church and in the "Repelican" Party who went out to campaign directly against Senator Robak. And there were comments made from the pulpit, and there were some Catholics who were very offended by that. But those things happened. That's the ugliness that surrounds this issue that people for some reason are afraid to deal with.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Senator Kruse touched on it. And I'm going to get right down to the nitty-gritty of what it is we're dealing with here. This amendment should not be adopted. It is

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not money designed to establish a counseling program for needy pregnant women. It's a program to advocate a particular point of religious view. Abortions are legal. Anything legal should be available for counseling by these people who are going to get this money. I know there are people on this floor waiting for me to carry the ball, as usual, and I will. But these things I'm saying have got to be put into the record. If a woman...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you. Senator Thompson, followed by Senator Foley and six others.

SENATOR THOMPSON: Thank you. I want...I understand where Senator Chambers is coming from. But I'd also point out that we have currently in law a support services case management program for pregnant women that was passed in 1994 and amended in 1996, which includes support services, including but not limited to assistance with transportation services, participation in work expenses, parenting education, family planning, budgeting, and relocation, to provide for specific needs critical to the recipient or recipient's family, blahdy, blahdy, blah. But it also contains the same language, maybe written more technically correctly than in Senator Chambers' view, but it already says, for purposes of this section, family planning shall not include abortion counseling, referral for abortion, or funding for abortion. And I think that's throughout our statute. And there are political motivations for everything we do here, and I think there are for this bill. But I'm not into that today. And I'm not ducking it. I think we have an amendment that says one thing...actually, it doesn't say anything about abortion or counseling for abortion or against abortion. What it says is we're going to establish a pilot program to provide assistance to women who are pregnant or who believe they may be pregnant. We have, in our reform of welfare, which, oddly enough, and...not oddly enough, this is what...the section of law that this refers to is called Paupers and Public Assistance. And these are obviously very old terms, but that's what these programs are for, are for people who don't...aren't able to

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support themselves. And we made public policy decisions...and this is why I'm concerned about the way this bill is amended. Let me just give you an example. We do not allow a payment for a family...this is our current law...shall be based upon family size. Any child born into the recipient family after the initial ten months of participation in the program--this is our two-year program for dependent children who need assistance--shall not increase the cash assistance payment, and so forth. That is the policy of the state. A person could come in under this program then and ask for more assistance than we statutorily allow in our other section of statute dealing with the same funds. This bill...this should be a bill. This needs a hearing. This needs...shouldn't be intent language on a budget bill. It's more complicated than that. It started off, as you know, from a proposal that was brought to the Appropriations Committee, that we didn't know about until the day of the committee, nor did our staff. So we didn't have a whole lot of preparation for it, other than to ask questions there, and spent quite a bit of time discussing it later on, and how this would be bid, how this would happen, and so forth. And we made the decision not to use that money for that purpose, because it had problems that way. I think you got the same problems with this amendment as it is written. You're creating something that has one sentence. This is all it says: Funds shall be used for a pilot program to provide assistance to women who are pregnant or who believe they may be pregnant. That's all that this says. That's the whole guidance in this statutory...or, not...in this intent language. I think that's very, very wide open. I think it may be in conflict with other parts of statute by amending it into the grant that's coming from the federal government for the bonus money for...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...our performance as a state in administering these funds. This should be a General Fund appropriation. This should be a bill. This should be creating a program. This should be...have a hearing. This isn't...this is very late in the process. And I'm going to cite some other sections of statute that I believe it's in conflict in...with. I think it needs to be straightened out. If we want to do some

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direct appropriation, I've never...I've been here eight years, and I've never had one of these groups come and ask for assistance for this purpose. But maybe now that they know there's some money floating around out there, they might like to ask for it. But with...in the absence of the input from the service providers on this, other than the provider from...that the department presented from Pennsylvania, it's kind of a mess. And so I don't really care about what the political motivation was. I'm concerned about how this amendment is written, and how it can be administered without being in conflict...

SENATOR CUDABACK: Time, Senator Thompson.

SENATOR THOMPSON: ...with existing statute.

SENATOR CUDABACK: Thank you, Senator Thompson. The issue the body discussing is the amendment to the Appropriations Committee, AM1374 to LB 425. On with discussion. Senator Foley, followed by Senator Preister and eight others.

SENATOR FOLEY: Thank you again, Mr. President. Let me...I've taken some notes here on some of the issues that people are raising that need to be addressed. Senator Thompson is raising some interesting questions and some points regarding what is permissible with TANF funding. And again, I refer back to the document that I cited earlier. This is a document from the U.S. Department of Health and Human Services, which provides that each state must submit a plan to the U.S. Department of Health and Human Services, outlining what we're going to do with the money. And there's enormous flexibility that the department allows in the state's uses of these funds. And these funds, these TANF dollars, are being used for this very purpose in other states. So it's not that the TANF program in any way prohibits our using these dollars to assist pregnant women. That's not the case. Other states are doing it. It's well within the parameters of the TANF program, and it would be permissible here in Nebraska. There are other technical issues regarding what a grantee could do and could not do. Those are contractual issues. When a winning grant is selected by the Nebraska Department of Health and Human Services, HHS Nebraska will have to enter into a contract with the provider. And there

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can be nothing in that contrary to the uses of those federal dollars and the regulations associated with the use of those federal dollars, and there can be nothing contrary in that contract that would be contrary to Nebraska law. So those issues are important for Senator Thompson to raise, but we're not going to write the contract here on the floor of the Legislature. We're appropriating money to the Department of HHS, with the intent language, so they know what they're supposed to do with it, and then they have to write the contract. They have to conduct the solicitation process for the grantees, and so forth. They have to review the bids and select the winner. And then they have to fill in all the details in that contract, in conformity with law. There's been some discussion of some of the other uses that the Appropriations Committee has found for TANF funding, including the program that Senator Howard has championed, the Home Visitation Program. Again, I want to emphasize, this amendment does not take away one dollar from what Senator Howard was...is doing with that program. Most of us on the floor voted for that legislation to set up that program. And now the Appropriations Committee has found some TANF funding to fund it. I'm not taking away any of that money. That program goes forward, and it's going to be funded pursuant to the actions of the Appropriations Committee. This amendment does not tamper with those dollars. In fact, my amendment does not tamper with anything the Appropriations Committee has done, except add to it with some funds that are available. It's not a transfer from one program to another. This is a supplement to their work. It does not tamper with their work. Senator Chambers has raised some questions about abortion counseling. We've been doing that since Roe v. Wade with Title X funding. And there's plenty of that money flowing into the state of Nebraska. And that's very much a component of that program. That's what sustains Planned Parenthood and some of these other Title X grantees across the state. It's the Title X funding. It's a federal program, again, that they can tap into, and they have tapped into, and will continue to tap into. This amendment doesn't touch those dollars. So all of that counseling continues. There's also discussion of bonus money versus regular TANF money. I think we can clarify that just for the conversation on the record. But if need be, a one-sentence amendment on Select File could certainly clarify

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that. We're using \$200,000 of bonus money here, and we're using \$300,000 of the regular TANF money. If there's any confusion. I don't think there's any confusion on that point over at HHS. They know where the money is, they know what they've committed to this program, because they've found it and they've identified it to me. Others have made the comment, what about these other groups that are doing it? Yes, there are other groups that are doing it. They're doing it on a shoestring.

SENATOR CUDABACK: One minute.

SENATOR FOLEY: And they're experiencing great needs beyond their resources, and they're stretched, and they can't serve all the women properly that are coming in, and meeting all the needs that are being identified. This program helps. It helps to supplement what the private sector is already doing. And that's part of the beauty of what we're doing here. Again, this is federal dollars. We're not committing General Fund tax dollars. These are federal dollars that have been appropriated in the state of Nebraska. They're available to us. We ought to use them for this purpose. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Foley. Senator Preister, followed by Senator Friend.

SENATOR PREISTER: Thank you, honorable President, friends all. I would like, if I could, to have a dialogue with Senator Don Pederson, please, Mr. President.

SENATOR CUDABACK: Senator, would you yield to a question, Senator Pederson?

SENATOR D. PEDERSON: Yes, I would.

SENATOR PREISTER: Senator Pederson, I'm trying to understand these funds, how we get them and how we can appropriate them. Normally, we apply for grants and you get grant funds to fulfill a certain responsibility or task, and you get it in a set amount. These funds don't seem to come that way. They're federal funds. Could you help me to understand what the funds are and how they pass through to us, in what amounts? And if



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you need some time to get that information, I can wait.

SENATOR D. PEDERSON: Thank you. I've just been clarifying that issue. TANF funds are, as we say, Temporary Aid for Needy Families. And we get this money as a result of efforts that we have made working with welfare families. And it's a bonus that they give you for what you have done to attempt to help these people.

SENATOR PREISTER: So as we have provided some assistance to needy families, we have provided some of those services, then, as a result of doing a good job in that, we're given, essentially, bonus money, and we're given it in amounts that the federal government determines we have earned, essentially?

SENATOR D. PEDERSON: That's correct. And part of the reason why...if you don't mind, part of the reason why we preserved money in that was because it takes effort in showing in working to establish what you have done in this regard, to establish your bona fides in obtaining that kind of money.

SENATOR PREISTER: That helps me to understand that this isn't just a grant. Because where I was coming from was, would these funds be taken back if we didn't use them? Would these funds not be available in the future? From what I hear you saying, or I think you're saying, is, we've gotten these funds, they've been given to us, and it's now at our discretion how we use them within those federal guidelines.

SENATOR D. PEDERSON: That's correct. And as I said, the reason that we wanted to preserve additional funds is so that we can establish our need for future use of funds such as this.

SENATOR PREISTER: So where we have set a priority on the home visitations that Senator Howard had introduced, the Appropriations Committee determined that was a good use of the funds, and allocated, I believe, \$400,000 for those visitations. The remaining bonus money is sitting there to continue home visitations, or to do some of these other programs in the future?

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SENATOR D. PEDERSON: That's correct. And actually, we, in a sense, by intent, established that in the following year of our biennium, we would have an additional \$200,000 that would go into that program. And then the remaining funds within the TANF program could be utilized for the necessary work that you have to do in order to establish your ability to obtain those funds.

SENATOR PREISTER: Okay. So the one concern I had, that we might lose some money, seems to be addressed. We're not losing the money. And we may be leaving it sit there, as you're saying, for the future, for other similar kinds of programs.

SENATOR D. PEDERSON: That's right.

SENATOR PREISTER: Okay. Thank you, Senator Pederson.

SENATOR D. PEDERSON: Thank you.

SENATOR PREISTER: Thank you, Mr. Chair.

SENATOR CUDABACK: Thank you, Senator Preister. Senator Friend, followed by Senator Schimek, on AM1374.

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Mr. President, I was also wondering if Senator Pederson, Don Pederson, just a couple quick questions in regard to...

SENATOR CUDABACK: Senator Pederson.

SENATOR FRIEND: ...what we're dealing with here.

SENATOR D. PEDERSON: Yes.

SENATOR FRIEND: Thank you. Senator Pederson, so...and I guess I don't want you to go too deep in speculation, because we don't have those crystal balls. If...put ourselves in the out years, three years out. If we use \$250,000-\$250,000, we use \$500,000 in the next two years--and maybe I'm following up a little bit on what Senator...the road Senator Preister was going down--is the fear...or, is there a fear there that we're starting

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something that we can't finish? I mean, could that be summed up...I don't want to put words in your mouth.

SENATOR D. PEDERSON: Well, let's start from this. I think that there are currently \$900,000 in the funding. We have attempted to utilize the \$600,000 of that for...\$400,000 for this biennium, \$200,000 for the next biennium, in an intent fashion, which would leave that additional amount of money left to help establish the...our effort, if you might call it effort rate, or whatever you'd call it, in order to obtain money in the succeeding years. And so what has happened is that when we have done \$400,000 in this biennium--and that's being acceded to, in a sense, by Senator Foley, he says, well, that means out of the \$900,000 there's \$500,000 left over, so we could put \$250,000 each year into this pilot program. Now, that's the way I would gather it.

SENATOR FRIEND: Thank you. And I guess I...that would lead me to this...I mean, what I am concerned about--and I'm guessing it would be the same concern, at least that's the direction that I think you're going--is that if this is done and this money...I wouldn't say "diverted," because Senator Foley has been clear about the money just being used, as opposed to diverted. There's a track record there. Three years out, the money has been used. I'm wondering where the fear is. My fear is that there's not going to be any money four years out. The federal government will come back...because isn't it true that two years ago, the TANF funds were barely existent? I mean,...

SENATOR D. PEDERSON: I don't think that's true. No, I don't think that's accurate.

SENATOR FRIEND: Okay.

SENATOR D. PEDERSON: I'm clarified to the extent that the bonus money for the state is relatively a new thing. The TANF funds have always been there. But this bonus, which they give you if you show efforts to try and accomplish the four goals that they have established.

SENATOR FRIEND: Okay. And Senator Pederson, all I wanted to do

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is to make sure that if we...that if this body ran in this...if the Legislature ran in this direction, that we're not putting ourselves in...and I under...I think I understand the dialogue and the direction that this discussion is going. I want to make sure we're not putting ourselves in a bad position for a pilot program of this nature later on, or the use of those funds or potential funds three years from now. That would be my only fear. Because frankly, the way this discussion is going, I don't see a down side to this money being used right now. I guess that's what I would say. And I would, I guess, ask you to respond, would my fears be warranted? I mean, if the money is either used for this or for some other purpose, are we putting ourselves in any worse shape? I mean, as opposed to saving the money, waiting for an appropriate use, or using it here, are we putting ourselves in any worse condition doing one thing or the other?

SENATOR D. PEDERSON: I think that what happens is, bonus money...

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: ...is for that purpose--a bonus if you show that you are doing something. Well, if you utilize all the funds for specific programs, then you don't have the capacity to go about doing the things that are necessary in order to evolve a new funding for succeeding years. It's kind of like drying up the well, to a certain extent.

SENATOR FRIEND: Okay. Senator Pederson, thank you.

SENATOR D. PEDERSON: Thank you.

SENATOR FRIEND: And I think it's been a little convoluted to me to try to drive through this process. But I think that helps. With that, Mr. President, how much time is remaining?

SENATOR CUDABACK: About 20 seconds.

SENATOR FRIEND: Oh. Thank you, I'll..that will be all, Mr. President. Thank you.

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SENATOR CUDABACK: Thank you, Senator Friend. Senator Schimek, followed by Senator Johnson. Senator Schimek, on AMI374 to the committee amendments.

SENATOR SCHIMEK: Yes. Thank you. Mr. President and members, I've been listening, and the more I listen, the more I think, first, I don't want to be drawn into that political argument, because it gets us nowhere. What I want to try to do is, in my own mind, determine that this is the best use of this money. And to date, I haven't heard anybody say that there has been an indication from providers that this program is really needed, and that they've heard from...I haven't heard from a single person about this particular amendment, saying that it's needed, there's a desperate shortage of services, or anything like that. We're talking \$.5 million here. This is a \$.5 million amendment. And I guess I would prefer to put it on hold, anyway, Senator Foley, and have you come back in and show us that there is a need. That...you know, that can happen next year. The funds are going to be there. And if it is necessary and needed, fine. But what I've heard so far is that--at least, this is from the Appropriations Committee--so far, we're taking care of these kinds of programs pretty well right now. So at this point, I'm not going to support the amendment either. I would like to be assured that this is really necessary, and that we're not just throwing money down a well, so to speak. And I do trust the Appropriations Committee to look at the broad picture and decide which of these services are most necessary. So I will be supporting the Appropriations Committee regarding this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Johnson, followed by Senator Chambers.

SENATOR JOHNSON: Senator Cudaback, members of the Legislature, I feel much like what Senator Schimek has just expressed. Yesterday, someone asked me where I stood now that we're getting down to the financial aspects and considerations for the next couple of years. And I said, we've had a very hardworking Appropriations Committee working virtually every day since this Legislature has started. It's going to take an awfully good

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argument to get me to change from what these people have concluded. This has been heard before by the Appropriations Committee. They thought that it was best to save these funds for other uses. We have had two senators who deal with this problem all of the time, who have said this isn't a particularly big problem in our state. We also had Senator Schimek show us the statistic that we're 50th in being able to reduce teenage pregnancies. It would seem to me that perhaps we might want to try a little prevention. Now, we might argue about how to go about that. But here are some statistics. I think I've mentioned them here before, but they're worth repeating. If you want to take a young lady and see whether she ends up on the poverty rolls or not, there's three things that you do. You see to it that she graduates from high school, she gets married after 20, and in particular, has a baby after 20. If you can succeed in meeting these three objectives, only 7 percent of these young ladies will end up on the poverty rolls. Fail, and it's 77 percent. That's where we can do some good. As I said, it might be a question of how we go about doing this. But I think that there would be common ways that we could get together to reduce our number from 50th. And really, prevention is still the way to go. One other just little aside. Maybe I'm smarting a little bit. But the...I had a DNA bill, and Senator Chambers and I might argue a little bit about how that is used by law enforcement people. But I think that we'd be in agreement that it also...that it is scientific evidence, does not discriminate. Nebraska and North Dakota are the bottom two states in using DNA, the bottom two states. Look at all of the rapes, et cetera that women and others endure, and we are one of the two bottom states. I approached the Governor's office about helping finding...

SENATOR CUDABACK: One minute.

SENATOR JOHNSON: ...\$80,000 for this funding that certainly would help women, and many others as well of course, and I was told, well, we would like to help you but there isn't any funding available. Forty-one million dollars in the State Patrol budget but not \$80,000 to get this program going, or \$40,000 next year. One last little thing, and I'll chide...

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SENATOR CUDABACK: Time, Senator Johnson.

SENATOR JOHNSON: Time?

SENATOR CUDABACK: Yes.

SENATOR JOHNSON: Yes, sir. Thank you.

SENATOR CUDABACK: Thank you, Senator Johnson. Senator Chambers, followed by Senator Howard, on AM1374.

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I would like to start by giving Senator Johnson whatever portion of my time he needs to complete his thought.

SENATOR CUDABACK: Senator Johnson.

SENATOR JOHNSON: What it is, is this, is one of the things, if we want to really reduce the number of abortions in this country, there's one thing--and I am a Republican--that our President could do, and that's release the morning after pill. It's been thoroughly tested. The group that did the testing stated that it was safe to use. They then made up some excuse that it hadn't been thoroughly tested on 13- or 14-year-olds, and didn't release it. The reason I bring this up is the article that I read regarding this from this committee said that it would reduce abortions by one-half in this country. Why don't we consider getting at the heart of the problem instead of trying to make it look nice after it's happened. Thank you, Senator Chambers.

SENATOR CUDABACK: Senator Chambers, you've got about one minute...about one and a half minutes have been used up.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, if you look out in the lobby, you can get an idea of what this amendment is about. It's crystal clear to everybody on this floor who has been here any period of time. This is an anti-abortion amendment. There's a specific organization which Senator Foley and his minions have in mind that this money is to go to. No question about it. The

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Governor who soon will be ex-Governor has made it clear what his position on this matter is, and this was a crass political move on his part. With all of the other things that definitely need funding, ongoing funding, he selects something like this and he wants a company that will put up billboards because every time you see the billboard, it will ring up in people's minds an advertisement for David Heineman. Billboards are not going to do the job alone. There are situations which women who are pregnant face. And I'm in favor, and always have been, of assisting those women, but I don't want them to become political pawns. If a woman is pregnant and it is medically established that her life is at stake if this pregnancy is not terminated, and federal money funneled through this state will go to an agency or an organization which cannot give her any advice, it would be wrong to send that money to that location. It shows how, when religion gets involved and becomes the driving force, the welfare of the people who supposedly is to be served will not be served at all. Other people have given fiscal reasons, conservative reasons, why this amendment should not be adopted. So when you put all of these things together, it is clear that it would be unwise to adopt Senator Foley's amendment. So for whatever reason people have for voting no, I hope there is sufficient numbers to take this amendment down to defeat. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Howard, followed by Senator Brown.

SENATOR HOWARD: Thank you, Mr. President and members of the house. As I mentioned before, there are excellent agencies in place here in Nebraska to meet this need, and I question the concern that there may be deficit with these agencies or maybe an unmet need. I can tell you, in the 34 years that I've done social work, when I have referred any individual, any prospective parent to any of these agencies, they have always made themselves available to provide service. There's never been anyone turned away. There's never been any claim of we're out of funds or we can't provide this service. Never. Why would we consider putting funding into start-up costs when we have agencies available doing the job, and these are Nebraska agencies? I'm completely dumbfounded by that thought process.



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If we are sincere in wanting to look at curbing the tide of children coming into protective services, coming into foster care, spending years of their lives in foster care, we really need to look at the front end. We need to look at preventive services. That starts in the home. That starts before referral to child protective service. I can't implore you enough to look at this early intervention program and take action on it. Stand behind it, give the visiting nurses the opportunity to do the job that they're so skilled at doing. And with that said, I'd like to offer the remainder of my time to Senator Chambers.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Senator Howard. Mr. President and members of the Legislature, I'd like to ask Senator Foley a question.

SENATOR CUDABACK: Senator Foley, are you available for question of Senator...

SENATOR CHAMBERS: Oh, that's okay. The time will run out. But it had been touched on, the idea, is this supposed to create an ongoing program which the state is obliged to continue funneling money to? That question has been touched on. There's been no adequate answer. There are reasons to apply this money to the programs that Senator Thompson and others have discussed. The Appropriations Committee members who have spoken explained why they did not accept this approach. I think those reasons are compelling, but I do want to touch on the others that are underlying this entire thing. And Senator Foley should have forthrightly talked about those things because they are his major motivation. If the main reason for doing this is to give needed counsel and advice to women, all information across the spectrum will be available and provided. If any organization says that their particular religious, ethical or other views will prevent them from advising women as to all of the legal options available, such an organization should not be considered as the grantee agency or organization. And Senator Foley should have put that in his amendment if he was not trying to skew this in one direction to give one point of view. If there's not to be any discussion of abortion, there should be nothing said

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against abortion. And any organization which would not advise a women relative to abortion, that organization is the one that should not get the money. Abortion is a legal, viable alternative and it should be available for women. No state money, no money from the federal government funneled to the state for another purpose, ought to be diverted to one of these narrow-visioned organizations. They are not that interested in helping children, because there are too many...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...issues and programs that come before us on this floor that relate to the welfare of children and they're not here. When we were talking about Medicaid and families being cut off Medicaid, it generally is a single female parent with children, and you don't see those people who are out in the lobby now steaming up the glass. They're not out there then, and that's what I'm looking at, and that's why I think these matters have got to be made a part of this discussion for future reference. People reading the cold words on print that you find in a transcript should know that the underlying, driving force behind this proposal of Senator Foley is a rigid anti-abortion position, so rigid, so anti, that a woman whose life is endangered by carrying...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Brown, followed by Senator Thompson.

SENATOR BROWN: Thank you, Mr. President and members. I, even though I tend to be on Senator Chambers' side on this issue, I don't believe that we can be cavalier about it, in that we have to look at what's good for all women, including those who may choose to have the child. And there are a number of those, and I don't think that we have...although I think that there are good programs out there, I don't think that we have sufficient programs to serve all of the people, nor do I think that always young women who need the most support are as aware of it as they

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need to be. And I am very aware of the programs that Nebraska Children's Home have and support those enormously. What my problem with this is that I'm not sure what it does to fix some of the things that I think need to be fixed, and that there are individual programs and I don't see how this makes the overall picture for the young woman any stronger. I think that Senator Foley is in the middle of a catch-22. He...there was a program, it was a fairly clear-cut program, but it didn't have anything to do with the state of Nebraska and the services that were already available. So we eliminate that aspect of it and so we really don't have anything that we can even understand in the most basic way. And so I don't believe that we can do anything right now. Even though I think that there probably is something that should be done, I still have real reservations about moving forward without any more information. And I would yield the rest of my time to Senator Thompson.

SENATOR CUDABACK: Senator, I did not catch who you wished to yield your time to.

SENATOR BROWN: Senator Thompson.

SENATOR CUDABACK: Senator Thompson.

SENATOR THOMPSON: Thank you, Senator Brown, members of the body. I kind of tend to overprepare for things, so I have pages of statute and everything else here because I was concerned about the technically...technical aspects of how this amendment was written. And if you vote for it, you've got to have a whole lot of stuff fixed up, and it also is not very clear. But I think what I'm going to say, as this is my final time for speaking, is that the Appropriations Committee, when it meets, has a responsibility to look at the big picture. And we, through a series of hearings that sometimes go on into the evening...and I'm not trying to have like a pity thing here, but we do try to put this all in balance. And I would be concerned about diverting this money from the purpose that the department had for it in the beginning, and as Senator Pederson has expressed, without this specific idea having had a hearing so we know what it's going to do and how it impacts other programs that we already have another law that we already have.

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Remember, this is intent language in the budget bill. This isn't law. And we already have policy and programs in our current law that we could also funnel this money into, because I agree with Senator Brown, I think this has morphed into something that's now become so vague we aren't exactly sure how the money would be used, and we are now going to have a pilot program with multiyear aspects to it, and I'm not sure we need another program, and that it may be best to find General Fund money and put it into these kinds of...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...assistance. I would...is this one minute on Senator Brown's time or my time? Excuse me. Hello?

SENATOR CUDABACK: You have 51 more seconds on Senator Brown's time and then it's your time, Senator Thompson.

SENATOR THOMPSON: Okay. I lost my thought. When we look at this, we have two choices. We...the original use of this money by the department was to be able to strengthen and improve their services and processes and training so that we can continue to get this money from the federal government. That money would stay if you don't appropriate it to this other purpose. This new purpose...and I'm going to tell you a story from when I was a county commissioner and I worked on...this is back...I'm so old that this is back when social services were a county government function. It wasn't always a part of state government as it is now. And...

SENATOR CUDABACK: It's now your time, Senator.

SENATOR THOMPSON: Okay. And I'm telling you this story to prepare you for what I think could be a conflict with the way the language reads here and what our current statute is, the intent language. And I got a call from a person who was on welfare, complaining about our welfare department, and she went through this whole deal of what was wrong and this was wrong and that was wrong, and she didn't have this and she didn't have that, and her kids were going to...she didn't have enough food and all, a lot of other things. Found out later this was

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someone who worked the system. And in the end she said, you know, I'm just so sick of this hassle, I might have to go out and get a job. And the reason I tell you that story is because, the way I read Senator Foley's amendment, right now we don't allow people who are currently in our system who get pregnant within the time frame that we set in our welfare reform of two years to get additional payments for their family. But they could come in through this program, a back door, and find a different way to get this "assistance" that we aren't even sure what it is. I mean, you're going to give another way for people who...to work the system when we really want this to help this...I believe Senator Foley wants this money to help people who, as he said at the beginning, for socioeconomic reasons, may choose to terminate a pregnancy. Now his bill doesn't say anything about...this amendment doesn't say anything about it, but I think we need to take this back, create it as a specific item that would be heard by the Appropriations Committee next year or as a bill in the Legislature for General Fund money, rather than put it into some fuzzy thing that could have unintended consequences that are in direct conflict with the current policy of the state. And if Senator Jensen is available, I'd like to ask him a question. Senator Jensen, I wasn't here during welfare reform when the state decided to put the two-year limit in and restricted payments to women who become pregnant. Could you tell me what the philosophy was behind that and how that particular piece came into effect? I know that was controversial not to provide assistance to a family that had another baby, but I'd like to know about that.

SENATOR CUDABACK: Senator Jensen, would you yield?

SENATOR JENSEN: Yes, Senator Cudaback and members of the Legislature. And it was controversial when we passed welfare reform and, yes, we did put a 10-month period on there that if you are on assistance and you become pregnant, you do not get additional cash benefits for 10 months. And the whole reason for that is to, so that we didn't have people that were, oh, perhaps getting pregnant on purpose so they can get more dollars for child care...not child care, but for themselves and for their children. So that was put on there. And I think the welfare reform has worked for Nebraska, and as a matter of fact,

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I believe that this extra money on this TANF is because that Nebraska has done a reasonable job in our welfare reform in getting people to work and getting people education also. So that's what this bonus money is, is about, is because of what we've done in the past.

SENATOR THOMPSON: Thank you very much. I would...I am worried that if we pass this amendment, we're getting off in a direction that's confusing in terms of our public policy in this area and the successes that we've had, that it will be a back-door way in for some people who are trying to circumvent that. And I think we need more clarification. That's just one piece of the problems of this amendment. But I think it's most appropriate to not do something on the floor at this point in the Legislature cycle. I'm all for doing things to help pregnant women,...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...particularly pregnant teens. I can tell you from work that I did before I came to the Legislature, though, I served with a group and we discovered that some young women were being served by eight different agencies because they were pregnant. They'd been enrolled in eight different programs, and that wasn't a very good use of our money either. I think this needs to be written more specifically. I think it's just not appropriate to add this to the budget bill this year at this time. Thank you.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator Jensen, on AM1374. The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM1374 to the committee amendments? All in favor vote aye; those opposed, nay. We're voting on ceasing debate on the Foley amendment, AM1374. Have you all voted on the question who care to? Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 27 ayes, 3 nays, to cease debate, Mr. President.

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SENATOR CUDABACK: The motion was successful. Debate does cease. Senator Foley, you're recognized to close on AM1374.

SENATOR FOLEY: Thank you, Mr. President. I'd like a call of the house, please. I realize my time is running.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 33 ayes, 0 nays, to go under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor, unexcused senators report to the Chamber. The house is under call. And your time is rolling, Senator Foley. Senator Schimek, Senator Louden, Senator Bourne, would you please check in? Thank you. Senator Smith, also, and Senator Louden. Senator Foley, your time is...

SENATOR FOLEY: Yes, thank you very much, Mr. President. Let me address a couple of the questions that are still hanging out there, before we cast our votes on this question. The...Senator Chambers has made the point that if we're going to do something along these lines, it has to have the abortion option on the table. Let me remind you again, we've been funding that option and that discussion for 30-plus years now through the federal Title X program. That's the program that's been channeling millions of dollars into this state, year after year. We've got a number of...dozens, maybe 15 Title X grantees that are receiving that money, and one of the requirements, one of the federal requirements under that program is that abortion being offered as the option. It's got to be there on the table. There's no requirement that other programs that we administer must also have the abortion option on the table. There's no requirement whatsoever. In fact, the Supreme Court has spoken to that issue time and time again. In Webster v. Reproductive Health Services, 1989, the court stated...the court has emphasized that Roe v. Wade implies no limitation on the authority of a state to make a value judgment favoring childbirth over abortion. We're not required to favor abortion over childbirth. The court has left us the option to offer

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programs and services that favor childbirth over abortion. Our own Nebraska statutes embody that concept. Nebraska Code 28-325: "an expression of the will of the people of the state of Nebraska and the members of the Legislature to provide protection for the life of the unborn child whenever possible." That's been in our statute books for years. It's completely within our jurisdiction, completely within our rights under the U.S. Supreme Court decisions and in our own statutes, to offer programs and services to women that favor childbirth. It's okay to favor childbirth over abortion. This TANF program has been on the books now on the federal level for ten years. We've been receiving funds. There's a stream of funds flowing into the state and that stream is going to continue. There's nothing to indicate that our TANF funds have been in any way jeopardized. In fact, we got performance bonuses because we're doing so well under that program. That money is going to continue to flow. I recognize, because I served on the Appropriations Committee for two years, that when you invest as many hours as they do into their package, that there's a great tendency to want to protect the package from any kind of tampering, any kind of changes. I understand that. And they've made a great investment of time and energy into that package, and I appreciate their work because I know what they...how hard they work on that...building that state budget. This amendment does not tamper the work of the Appropriations Committee. Their work stands. I'm not tampering with it. I'm not taking money out of anything that they've appropriated funds for. We've identified some federal funds above and beyond what they've...

SENATOR CUDABACK: One minute.

SENATOR FOLEY: ...addressed in their package and we're offering to serve needy women who are pregnant and need our help. Yes, Senator Thompson, there are some contractual issues. That's not the job of the Legislature to write that contract here on the floor of the Legislature. HHS will do that after they conduct the solicitation process. They will write a contract with the winning grantee and that contract must be in full conformity with federal and state law. They can't go outside of those boundaries. My colleagues, I ask for favorable consideration of AM1374. Thank you. I'll take a machine vote, Mr. President.



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SENATOR CUDABACK: You've heard the closing on AM1374. The question before the body is, shall AM1374 be adopted to the committee amendments to LB 425? All in favor vote aye; opposed, nay. Voting on the adoption of the Foley amendment, AM1374. Have you all voted who care to? Have you all voted who care to? Senator, for what purpose do you rise? There's been a request for a roll call vote. Mr. Clerk, when you get time, please call the roll on the question.

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1370.) 25 ayes, 10 nays, Mr. President.

SENATOR CUDABACK: The motion was successful. The amendment has been adopted. I do raise the call. (Visitors introduced.) It is 3:30. As the agenda states, General File, state claims bill. Mr. Clerk, when you get time, LB 737.

ASSISTANT CLERK: Mr. President, with respect to LB 737. (Read title.) Bill was read for the first time on the 19th of January, referred to the Business and Labor Committee. That committee reports the bill to General File with committee amendments attached. (AM1294, Legislative Journal page 1311.)

SENATOR CUDABACK: Senator Cunningham, Chairman of committee, you're recognized to open.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. LB 737 is the annual state claims bill that the Business and Labor Committee introduced for the risk manager at the Department of Administrative Services. For those of you unfamiliar with this process, this bill provides for the payment of certain claims against the state, provides for the appropriation of funds for the payment of these claims, and it authorizes certain write-offs. There are three types of claims included in the bill and/or the amendment that will follow. First, as provided for under the State Miscellaneous Claims Act, are those claims where there is no other specific provision of law for the resolution of the claim. The process for a miscellaneous claim is that a person files the claim with the risk manager, it's investigated, and then heard before the State

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Claims Board. The total miscellaneous claims this year are \$696,692.14, of which \$598,959.45 comes from the General Fund, \$17,727 from cash funds, and \$30,005.69 from revolving funds. Another type of claim that's included in this bill is a tort claim, as provided for under the Tort Claims Act. If the court enters a judgment against the state, or a settlement agreement was entered into whereby the state agreed to pay a sum of money to the claimant, then it is included in this bill. Total tort claims, and there is only one, \$241,000. The third type of claim are workers' compensation claims whereby the court awarded a judgment against the state, or the state entered into a settlement with the claimant. Workers' compensation claims in this bill total...bill and the amendment, total \$179,890.42. Finally, there are also write-offs included in this bill whereby an agency has attempted to collect a debt that it thinks is no longer collectible. The monies we are asking for approval for are those sums that are above the statutory sums that the risk manager is allowed to pay and, therefore, must have the Legislature's approval. All of these claims were approved by the State Claims Board. The Business and Labor Committee, after further investigation, approved the bill and the amendment by a 6 to 0 vote, with Senator Chambers absent that day. And after I do the amendment, the committee amendment next, I would ask you to look for this copy I handed out this morning, "State Claims Bill -- LB 737." After we go through the amendment, I'll explain that a little bit. And with that, that will end the opening on the bill, Senator Cudaback.

SENATOR CUDABACK: As stated by the Clerk, there are amendments by the Business and Labor Committee. Chairman of the committee Cunningham, you're recognized to open.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. We have the committee amendment that strikes the original Section 2 of LB 737 and inserts the tort claim number 02-458. This claim is for the bus driver of the Seward school system that went off West Dodge Road in Omaha. There was a settlement agreement for \$291,000. The risk manager has the authority to pay the first \$50,000, and is asking the Legislature to approve the additional \$241,000 owing under this agreement. The amendment also provides for the payment of three workers'

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compensation claims where the state was ordered by the court to pay an award. The risk manager has the authority to pay the first \$50,000 in a workers' comp claim, and brings these claims for the authority from the Legislature to pay the balance of the court order or judgment. The first claim was in the original bill, but the attorney listed was incorrect. And I will mention this at this time, that we do have another bill introduced, LB 237, that does give the authority to pay workers' compensation claims up to the first \$100,000, that the injured worker can receive benefits quicker and not have to wait for this process to take place. There is a brief explanation of where these work comp claims come from on the last page of the handout I talked about earlier. Section 2 offers a technical change to page 3, line 17, by correcting the amount of the attorney fees ordered by the federal district court. Section 3 reduces the amount of a write-off listed on page 5, line 11, of the original bill. I ask for your adoption of the amendment and I would...I would ask you again, if you have any questions, look at the handout that came to you this morning and everything is listed on there. They're listed by miscellaneous claims, tells who they go to, a little description of them, the amount of the claim. And after the miscellaneous claims, the next section has to do with agency write-offs, and then is the tort claim that I talked about, and the last one are the workers' compensation claims. And I will try to answer any questions you have.

SENATOR CUDABACK: Thank you, Senator Cunningham. You've heard the opening on the committee amendments. Open for discussion. Senator Synowiecki.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback, members. Senator Cunningham, would you yield to a question I have?

SENATOR CUDABACK: Senator Cunningham.

SENATOR CUNNINGHAM: Yes, I would.

SENATOR SYNOWIECKI: I don't have the actual bill. I'm just going off your handout and it's page 2, the appropriation or the claim for the moving expenses, Department of Corrections, claim number 05-218.

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SENATOR CUNNINGHAM: Yes.

SENATOR SYNOWIECKI: It indicates that this particular employee moved to Omaha to work for the Department of Correctional Services to run the laundry, coordinator, but isn't that a Cornhusker State Industries operation?

SENATOR CUNNINGHAM: Yes, I believe it is, Senator Synowiecki.

SENATOR SYNOWIECKI: And what is the...isn't the Cornhusker State Industries' relationship relative to Department of Corrections entirely separate, entirely self-sustaining? And given that premise, which I believe is true, why are we...what is the purpose and the reasoning behind this claim? I guess the allowable maximum for moving expenses is \$12,000. Does that necessarily apply to Cornhusker State Industries?

SENATOR CUNNINGHAM: Yes, I think it does, Senator, and that comes out of the Department of Correctional Services. It isn't a General Fund appropriation. But my understanding, that is under the Department of Corrections.

SENATOR SYNOWIECKI: Now, this will come out of Department of Correctional Services then, this \$4,000?

SENATOR CUNNINGHAM: Yes.

SENATOR SYNOWIECKI: But isn't Cornhusker State Industries...I know, from what I understand, their salaries and them sorts of things are entirely separate, entirely self-sustaining, so why would we take from the Department of Correctional Services' budget money to pay this claim when the employee actually, in fact, works for Cornhusker State Industries?

SENATOR CUNNINGHAM: I guess I'm a little bit at a loss, Senator Synowiecki. I don't know that. All I was to understand is the Cornhusker...what are they called again?

SENATOR SYNOWIECKI: CSI, Cornhusker State Industries.

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SENATOR CUNNINGHAM: Okay. They're somehow under the Department of Corrections. And I would check with legal counsel to see if she has any other information on that.

SENATOR SYNOWIECKI: And I also have met with the Fiscal people when I seen them, and this just came on my radar screen as well, as I've had interactions and some relationship with the Cornhusker State Industries, and I want to confirm that...and I'm being told, Senator Cunningham, for your background, that there's zero general monies that go to salaries for Cornhusker State Industry (sic) employees. So I'm...the basis on my question, Senator Cunningham, is why we would bill or claim...produce this claim against the Department of Correctional Services' budget when Cornhusker State Industries has their own separate budget that is entire...is supposedly, philosophically, entirely self-sustaining and independent of the Department of Correctional Services' budget?

SENATOR CUNNINGHAM: I guess I would have to do some more research on that, but I would tell you this person was hired by the Department of Corrections. They're the ones that hired him and that's where all of the e-mails back and forth went for what his...what they were going to pay for moving expenses.

SENATOR SYNOWIECKI: Okay. Yeah, perhaps we'll continue the dialogue and try to...

SENATOR CUNNINGHAM: I'll have to...I'll have to try to find out.

SENATOR SYNOWIECKI: ...get to the bottom of this. It's my understanding this particular employee works in the laundry service for the department...or, excuse me, for the Cornhusker State Industries, which is an entirely separate identity and self-sustaining, at least that's what they indicate on their web sites and that sort of thing. And I would be a little apprehensive of billing Department of Correctional Services for an expense that is incurred by an employee...

SENATOR CUDABACK: One minute.

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SENATOR SYNOWIECKI: ...of Cornhusker State Industries if the information I have received so far is true, in that all their salaries and so forth are not derived from the Department of Correctional Services' budget but rather from Cornhusker State Industries' budget. I may not be entirely clear, and this is something that has just recently came on my radar screen, and be happy to work with you and your staff so that we can answer some of these questions. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. Senator Bourne, followed by Senator Cunningham. Senator Bourne, are you available? Senator Cunningham, Senator Bourne waives off.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback. Senator Synowiecki, just so you're listening, we got a note in that this is paid from the CSI operating fund, this \$4,000. That is the operating fund it comes out of. We have down Department of Revenue...or, pardon me, wrong one...Department of Correctional Services Revolving Fund, but it does come from the CSI operating fund. So if you want to respond...

SENATOR SYNOWIECKI: Okay. Yeah.

SENATOR CUDABACK: Did you...

SENATOR SYNOWIECKI: May I proceed, Senator Cudaback?

SENATOR CUDABACK: You may.

SENATOR SYNOWIECKI: So just to ascertain, Senator Cunningham, this will be coming from...this claim will not come out of General Funds, Senator Cunningham, but it will come from Cornhusker State Industries?

SENATOR CUNNINGHAM: Yes, it will.

SENATOR SYNOWIECKI: Their cash funds?

SENATOR CUNNINGHAM: Yes. Yes.

SENATOR SYNOWIECKI: Okay.

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SENATOR CUNNINGHAM: We were...their operating fund.

SENATOR SYNOWIECKI: Okay. I appreciate that.

SENATOR CUNNINGHAM: I was in error in that statement.

SENATOR SYNOWIECKI: Thank you, Senator Cunningham. I appreciate the information.

SENATOR CUNNINGHAM: And I will return the rest of my time.

SENATOR CUDABACK: Thank you, Senator Cunningham. Senator Wehrbein.

SENATOR WEHRBEIN: Yes, Mr. President, members of the body. Senator Cunningham, it seems like every year we have some on these expired warrants. And I have a hard time...I'm talking about the one with...number 5, 05-130, filed by US West, where the expired warrants was let go a year for \$80,000. We always run into this year after year where thousands of dollars mean very little to companies and sometimes individuals. It's on page 2, top.

SENATOR CUDABACK: Senator Cunningham.

SENATOR WEHRBEIN: You know,...

SENATOR CUNNINGHAM: Yes, I believe the \$80,000 goes with number 4, Senator Wehrbein.

SENATOR WEHRBEIN: Okay, you're right. That's right. It's just above number 5. Right.

SENATOR CUNNINGHAM: But it's an expired warrant also. I guess that's up to the body to decide what they want to do with those. Those are warrants that didn't get cashed and they're just asking for reissuance of those. My personal feeling, I mean I've done it before, not with amounts like this, but where I've not cashed checks by the time they expired, and I have requested that they be reissued. But it's totally up to the body what

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they want to do with this, if they want to reissue them or not.

SENATOR WEHRBEIN: Well, I see it was already done once, and then it happened again, if I read it right.

SENATOR CUNNINGHAM: Right. They change...

SENATOR WEHRBEIN: I mean because of a change in name.

SENATOR CUNNINGHAM: Are you talking about the one on number 5?

SENATOR WEHRBEIN: Yeah. Yes.

SENATOR CUNNINGHAM: The one that's \$52,000?

SENATOR WEHRBEIN: No, I'm talking number 4. Oh, yeah. Yeah, I see the amounts, yes, I am talking number 5.

SENATOR CUNNINGHAM: That's the one where they...

SENATOR WEHRBEIN: I'm talking about...

SENATOR CUNNINGHAM: ...they changed the name of the company in the process and had to get it reissued and...because they couldn't cash the check after the company name was changed, and so they reissued it and then they apparently still didn't cash it.

SENATOR WEHRBEIN: I guess, in general, I'm talking about number 4 and 5, because both of those, I mean, it becomes lost. And I don't know how often that happens in everyday life, but it seems like we end up always every year where some of these checks are lost and it boggles my mind how people can lose a check for, in this case, \$80,000, and also then misplace another \$52,000. I...and I assume that you've discussed that. I don't know, I'm on the verge of perhaps doing something about that on...at least on Select File, but I just wanted your take on it from what...based on what you'd heard in committee.

SENATOR CUNNINGHAM: Okay. I would tell...Senator Wehrbein, I just got a note that this particular one that we're talking



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about was for overpaid taxes, so it's a refund. I don't particularly, personally, have any major desire either way. I told you that if it were up to me, I would pay it, but it doesn't upset me either way if the body opts to not do that. We as a committee voted to pay it, but I don't...

SENATOR WEHRBEIN: Well, I'm just reading at the bottom of page...you're talking about the one...claim number 4 now on...right? The corporate income tax refund was issued to Arrow Energy. But then it says, Arrow Energy, on behalf of Nelson Brown Equities, states the check is lost and requests reissue. So, I mean, here again, I don't know how responsible we are for lost checks and how often this happens, but it's hard for me to believe most people would lose even a \$10,000 check, let alone that amount. I just thought you might have more comments. But that one is in the amount of \$80,000, a significant amount of money.

SENATOR CUNNINGHAM: Well, I believe we have three of them this year that that's happened, three lost checks, and I can't say much else. If it were up to me, I would pay it because it is their money, in my opinion. I mean, admittedly, they're not probably as responsible as they should be, for losing a check of that size. But if the body,...

SENATOR CUDABACK: One minute.

SENATOR CUNNINGHAM: ...as a whole, doesn't want to pay it, that's the decision of the body.

SENATOR WEHRBEIN: Okay. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. (Visitors introduced.) On with discussion of the amendments, Senator Stuthman, followed by Senator Beutler.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to get into a little bit of discussion with Senator Cunningham, if I may, please.

SENATOR CUDABACK: Senator Cunningham, are you...Senator

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Cunningham.

SENATOR CUNNINGHAM: Yes, I am.

SENATOR STUTHMAN: Senator Cunningham, are we...are we discussing all of these claims and bills on this handout that you have?

SENATOR CUNNINGHAM: Yes. The way it is now, Senator Stuthman, we're recommending that you approve. If you approve this amendment and this bill, that means we will pay all of these claims. If you want to not pay something in here, you would have to file an amendment to take that out of the bill.

SENATOR STUTHMAN: Okay. Thank you. Could you go to the second to the last page, second to the last page on Request 05-209...

SENATOR CUNNINGHAM: Yes.

SENATOR STUTHMAN: ...by the Department of Health and Human Services, the Grand Island Veteran's Home, to write off \$12,000. You know, the first...the first one is for \$60.40, the second for \$882, and the third for \$11,809. And it says, "As to the third debtor, there is insufficient evidence whether anything was filed against the estate." This concerns me. You know, we've got a number here; we don't have evidence. Is this a figure pulled out of the air? Should we be accountable for it, or what is your feelings on this one, Senator Cunningham?

SENATOR CUNNINGHAM: Well, this was one that we did have concerns about as a committee, Senator Stuthman. I believe in this case the bill is not collectible, but at the time when the people were deceased and left the home, we believe the state could have done a better job of filing a claim at that point in case there were assets, and we don't believe that happened. And we are going to have an interim hearing this fall, Senator Stuthman, to examine the process that the agencies use for this sort of thing.

SENATOR STUTHMAN: Okay. Thank you, Senator Cunningham. Then I want to go back to the first page, if I may, on item number 2 on

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that insurance claim. It says, "The hospital attempted to collect from the insurance provider and worked the claim through the insurance company's appeal process attempting to obtain payment approval." And they were unsuccessful for that. Should the state, realistically, be responsible for that part of it, or would that be part of the unpaid part of a hospital's portion of the bill? That's a concern that I have. You know, I had served on a hospital board at one time, you know, and there's provisions for, you know, uncollectible debts, and I'm kind of wondering why should the state have to pay this. Yes, it's probably owed in a fashion or so, but should that realistically be a responsibility of the state?

SENATOR CUNNINGHAM: Well, as I remember it, Senator Stuthman, this was an athlete at the university and it was somewhat of an experimental process, as I understood, and that's why the insurance company wouldn't pay. So the university eventually, I guess, is responsible for paying that claim and so that's why we're at the point we are today.

SENATOR STUTHMAN: So you're...

SENATOR CUNNINGHAM: I believe that the university should pay the claim. I don't believe the hospital should be stiffed for it.

SENATOR STUTHMAN: And you truly believe that, you know, it should come out of the university and then ultimate come out of from the state, but that the university is responsible for that claim.

SENATOR CUNNINGHAM: It's scheduled to come out of the University of Nebraska Revolving Fund.

SENATOR STUTHMAN: Do we...do we have to appropriate money, additional money, for that portion, or is that in that revolving fund that would realistically take care of instances like this?

SENATOR CUDABACK: One minute.

SENATOR CUNNINGHAM: To my knowledge, it's in the fund, Senator.

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We don't appropriate additional money for that.

SENATOR STUTHMAN: Okay. But it needs to get the approval of the legislative body for them to do that.

SENATOR CUNNINGHAM: Correct.

SENATOR STUTHMAN: Okay. Thank you. That's all the questions I have. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Beutler.

SENATOR BEUTLER: Just wanted to make a comment, Senator Cunningham, and ask you if there were any...if there was any discussion on this point. I note that the Nebraska Appleseed Center for the Law is being paid \$153,000, apparently, with respect to a particular lawsuit that they won, and I also noted the other day in the newspaper that Appleseed had won five out of six cases against the Department of Health and Human Services, and I'm wondering how they're making decisions over there, whether they're...why is it that our...that our front-line organization, who should know the law in these areas better than anyone, is losing five out of six lawsuits to a small public law center? It raises the question in my mind as to whether decisions are being made on an objective basis or they're being made on some sort of political basis. Was there been...was there been...was there any discussion of...I mean, these payments are sizeable. That's just one of the five lawsuits they're going to have to pay on.

SENATOR CUNNINGHAM: Right. There wasn't a lot of discussion on that, but I would tell you in the hearing study that we have this fall that's definitely one of the issues that we need to address, because, I'm kind of taking words out of your mouth, but maybe you're saying that it's...being as it's not our money, it's easy to just say we can do this without really thoroughly thinking it through and seeing if it's actually legal to do that.

SENATOR BEUTLER: And this is going to come out of the Attorney

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General's General Fund? Why isn't it coming out of DHH funds?

SENATOR CUNNINGHAM: Our of which fund?

SENATOR BEUTLER: Well, this was a decision made, I assume, by the Department of Health and Human Services to choose to defend their action against the Appleseed Center?

SENATOR CUNNINGHAM: That's correct, Senator. Let me look here. Actually, I believe it comes out of the General Fund.

SENATOR BEUTLER: Whose budget is that coming out of? That's...

SENATOR CUNNINGHAM: I think that would have to be just a General Fund appropriation, Senator.

SENATOR BEUTLER: Okay. Well, we can talk about it further off the floor, but I'm interested in how you provide some incentive for people to hopefully assess their chances in areas of dispute based upon some measure of objectivity rather than a political position. It just seems to me that if you're talking losing five out of six lawsuits, something is happening there that is other than looking at something objectively. I would leave it at that for the moment, Senator. Thank you.

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: Thank you, Senators Beutler and Cunningham. Senator Cudaback, your light is next.

SENATOR CUDABACK: Madam President and members, I'd like to ask Senator Cunningham a question, please.

SENATOR SCHIMEK: Senator Cunningham, would you yield to a question?

SENATOR CUNNINGHAM: Yes.

SENATOR CUDABACK: Senator Cunningham, you alluded to the fact that one or two of these might be overpayment of taxes. Did you mean...

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SENATOR CUNNINGHAM: Yes.

SENATOR CUDABACK: ...in the description of taxes, would that be sales tax or what type of tax?

SENATOR CUNNINGHAM: Believe it was income tax, Senator.

SENATOR CUDABACK: I guess...I guess one reason why I'm asking this, I recall three or four years ago we had a person in central Nebraska who had overpaid sales tax and he came in for a refund and the body turned him down. Now, I'm not saying this guy shouldn't be refunded, but if it's the same kind of a circumstance, we have to make certain that the body is consistent. And I'd just like to, for the record, say that this person that did come in three years ago and asked for a refund on his overpayment, and it was absolutely a refund coming to him, but the body denied it because the statute of limitations, you might say, had run out. Now, I don't know if the statute of limitations had run out on this person.

SENATOR CUNNINGHAM: Yes. Yes, it had, Senator.

SENATOR CUDABACK: The statute of limitations had run out?

SENATOR CUNNINGHAM: Right. Right.

SENATOR CUDABACK: I'm just wondering...

SENATOR CUNNINGHAM: We're still searching whether it was income or sales tax, what it was, Senator.

SENATOR CUDABACK: I might add that I will, and my time is running, but I will probably vote to give this person a refund, but the person that was denied it three years ago, seems like we're not consistent here and we absolutely owed that person but simply because the statute...you may continue.

SENATOR CUNNINGHAM: Yeah, it was an income tax refund that was never cashed, a corporate income tax refund.

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SENATOR CUDABACK: So the check was actually written to him?

SENATOR CUNNINGHAM: Yes, the check was written and not cashed.

SENATOR CUDABACK: Okay. That's a little bit of different circumstance perhaps, because he had filed it and a check was written, and he just failed to...so it wasn't like he's applying for...after the fact, but the limitations had run out on the check, like 60 days, 90 days or whatever, right?

SENATOR CUNNINGHAM: It's a year.

SENATOR CUDABACK: Okay, it is a year. (inaudible).

SENATOR CUNNINGHAM: The warrant was never cashed and the company waited beyond the one-year statute of limitations that a person has to notify the department to ask for a new warrant to be issued.

SENATOR CUDABACK: Yeah, okay. That may be a little bit different circumstance, but I remember vividly the fact that we did not give this person a sales tax refund three years ago, but I don't recall whether he had filed. I do not believe a check was written to him, but he absolutely had the money coming. For the record, I just wanted to show that I'm still in favor of giving that person his \$35,000, which he probably will never get. But the body needs to be consistent on these issues. And, Madam President, that's my time.

SENATOR SCHIMEK: Thank you, Senator Cudaback. We're on the discussion of the Business and Labor Committee amendment, AM1294. Seeing no further lights, Senator Cunningham, would you like to close on the committee amendment? He waives closing. So the question is the adoption of the committee amendment to LB 737. All those in favor vote aye; all opposed vote nay. Have you all voted? Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of committee amendments.

SENATOR SCHIMEK: Are there other...oh, the committee amendment

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is adopted. Mr. Clerk, are there other amendments?

ASSISTANT CLERK: Madam President, Senator Wehrbein would move to amend with FA222. (Legislative Journal page 1371.)

SENATOR SCHIMEK: Senator Wehrbein, you are recognized to open on your amendment number FA222.

SENATOR WEHRBEIN: Thank you, Madam President. I just decided to do this kind of spur of the moment because it kind of bothers me over the years. It seems like every year I've been here we've had these expired warrants that in many cases one year is excusable, but I just...I can't believe people lose these large amount of checks. And I can live or die on the vote. It's not that big an issue with me, but I think we ought to establish some concern about the fact that people get these, and this...I'm talking about claim number 4, 05-100 at the bottom of page 1, and claim number 5, 05-130 on the top of page 2 in your handout, the "State Claims Bill -- LB 737" that Senator Cunningham handed out. One is them for \$80,628 and the other one is for \$52,209. One is to the Nelson Brown Equities for Arrow Energy Incorporated, the other is on US West Communications. You can read the details there on your own. I'd give some more time to Senator Cunningham to explain the circumstances. I have read one of those sentences on the bottom of page 1 over and over. I don't quite understand what it says, and I'll ask him to explain it: "The company waited beyond the one-year statute of limitations, then signed an agreement on July 23, 2004, with Nelson Brown Equities to act as Arrow's agent for collection." I don't quite understand what that means. And then, "Arrow Energy Incorporated, on behalf of Nelson Brown Equities, states the check is lost and requests the reissuance of the warrant." It's just hard for me to believe that an \$80,000 check bounces around. And so I definitely want more information. My intent would be we take an up and down vote. If I'm...the rest of the body doesn't agree, so be it. But I definitely would like more...I know the Department of Revenue recommended it, but it has always bothered me some when checks are lost or they let them expire and in some cases they are reissued and then even that doesn't get taken care of. So any information Senator Cunningham would like to give, maybe



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I'll be persuaded and maybe I'll have to withdraw, but that's my concern and that's all I have at this point.

SENATOR SCHIMEK: Senator Wehrbein.

SENATOR WEHRBEIN: If I have time, I can give my time to Senator Cunningham.

SENATOR SCHIMEK: That's what I thought I understood. Senator Cunningham, Senator Wehrbein gives you the rest of his time.

SENATOR CUNNINGHAM: Thank you, Senator Schimek. Thank you, Senator Wehrbein. I probably can't offer you an awful lot here. This Nelson Brown, that is a company that just specializes in helping to collect past warrants. I can go through a little bit of the dates of when things happened. Okay, on June 27, a warrant for the tax refund was issued to Arrow Energy in the sum of \$80,628. The company claims the warrant was lost and therefore never cashed, but there are no specific facts as to how or when it was lost. The review of the claim filed by Nelson Brown Equities on behalf of Arrow Energy Incorporated, the department's records show that the warrant number 10592957 was issued June 23 of '03 to Arrow Energy for a corporate income tax refund in the sum of \$80,628.61. The warrant was never cashed. The company waited beyond the one-year of statute of limitations that a person has to notify the department. On August 16 the department was notified, August 16 of '04. On August 9 of '04 there was a request from Nelson Brown Equities for claim forms, assuming the funds are still due and payable. I'm reading this backwards is what's happening, but I just can't offer you a lot on it, Senator. They just didn't cash the check and I can't give you a lot of other information. It's an income tax refund. They didn't cash it and they're asking for it to be reissued. So I'm sorry, I just can't give you a lot more.

SENATOR SCHIMEK: Senator Wehrbein.

SENATOR WEHRBEIN: I've got them tied together, so if you want to spend a little time on the second one?

SENATOR CUNNINGHAM: That's on the one for \$52,000?

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SENATOR WEHRBEIN: Yes.

SENATOR CUNNINGHAM: Okay. On March 14, 2003, a warrant was originally issued to Media One Group Incorporated in the sum of \$52,209.08. Media One Group Incorporated changed its name to US West Communications and subsequently asked that a new warrant be issued. The department cancelled the original refund and reissued a warrant on April 29, 2003. US West did not attempt to deposit the check until May 24, 2004, when it was returned to them as expired. There is no reason or evidence provided as to why the warrant was never cashed.

SENATOR SCHIMEK: Were you finished, Senator Cunningham?

SENATOR CUNNINGHAM: Yes. Yes, I am.

SENATOR SCHIMEK: Or did you wish to give your time back to Senator Wehrbein, or his time back to him?

SENATOR CUNNINGHAM: I will return my time to Senator Wehrbein.

SENATOR WEHRBEIN: Well, thank you, Senator Cunningham. If I have some time left, Senator Schimek, a few minutes?

SENATOR SCHIMEK: You have 3 minutes and 42 seconds.

SENATOR WEHRBEIN: Well, I don't have much else to say and perhaps we don't have any more light to shed on this, based on what Senator Cunningham has said, but I'm not uncomfortable myself to vote to deny these two claims, realizing Department of Revenue has said yes and so has Labor. Maybe all of you are more softer-hearted than I am in this particular case, but these have...there was a year when these...to do this. It's hard for me to imagine that any size organization would allow these kind of checks to just simply slip through the cracks. If there was extenuating circumstances that haven't been brought out as to why they were lost, why they were displaced--there was a change in management, change in people handling the checks, all those kinds of things--that would be different, but there is real no explanation. I thought maybe the committee would have those.

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Apparently, you don't. So I'm simply, from my perspective at this point, before I close, think we ought to vote on it. If you say...if you think so, yes; if you think no, that's fine with me.

SENATOR SCHIMEK: Thank you, Senator Wehrbein and Senator Cunningham. Senator Chambers, your light is next.

SENATOR CHAMBERS: Madam President, members of the Legislature, Senator Wehrbein, as we start some statutes, notwithstanding anything I've said along this line before, bless you, Senator Wehrbein. I support his amendment. There were parts of the bill on which I wanted information. Staff for the committee was trying to get all of the information. The people scattered around who look into these things were trying to provide information, but I still didn't feel comfortable. But in view of the fact that I wasn't at the committee hearing or when they voted, I wasn't going to just derail the train. But I'm going to support what Senator Wehrbein is offering here. In past years, I have not been willing to give these big companies this money. It hasn't meant anything to them. They can easily do without it. And there has to be a point where, when a certain line is crossed, that ends the game. Statute of limitation means it's over. Taking it in the plural, statutes of limitation have always been mentioned by the courts as a means of bringing an end to litigation. Up until that point, the field is wide open and any person who has a basis for seeking some kind of action can do so within that identified time frame. Once that line has been crossed and the time has run out, the game is over. So I'm going to support Senator Wehrbein's amendment and strike that language from the bill which he is attempting to do. There were some others in the bill which I didn't feel thoroughly convinced that they ought to be paid off. But once again, the fault is mine for not having taken time from other things which, frankly, I deemed to be more important and pressing than this bill. But the fault is mine for not having given all the time that would need to be given to satisfy myself that these payouts should be made. I'm going to support Senator Wehrbein's amendment, and if others have similar amendments I will approach them with an open mind. Thank you, Mister...Madam President, thank you.

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SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Stuthman, you're next in line to speak.

SENATOR STUTHMAN: Thank you, Madam President and members of the body. I also stand in support of Senator Wehrbein's amendment. Thing that really concerns me on this claim number 5, you know, they were issued the check on March 14 and then they changed their name, reissued, went to the...to the work and the effort to notify them that they did change their name to US West Communications. In my opinion, that is a fairly large company. Went through the process, was issued another check on April 29, and I'm sure on the check it said cash within a year. I don't know if that means anything. It must not, but they decided to maybe cash it on May 24 of 2004 and it was denied. Now I think a company of that size and magnitude should be responsible, or someone in that body should have been responsible for taking care of it. If they didn't need it for a year, they didn't need it for...in a year and 11 months, in my opinion. So I think the only thing that we are going to be able to do is we need to take a stand. What does that one-year statute of limitations mean? It means that check is worthless after a year. Doesn't that mean anything? A \$52,000 check, to me, would mean a lot. I don't know why they wouldn't have addressed it. I think somebody needs to be accountable as to why it wasn't addressed or why it was held up, and that, in my opinion, you know, if we're going to, you know, honor a claim no matter what the time is, let's eliminate that statute of limitation. Let's take care of it that way. Otherwise, let's do what we have intended to do. Thank you. Give the balance of my time back to Madam Chair.

SENATOR SCHIMEK: Thank you, Senator Stuthman. Senator Erdman, the Chair recognizes you to speak.

SENATOR ERDMAN: Thank you, Madam President. Appreciate the opportunity and I will plan to keep whatever remaining time that I have for future use, when I would deem it. I rise in support of Senator Wehrbein's amendment. I look at the two claims that are being stuck here. The number 4 on Senator Cunningham's handout, on page 1, was the check was lost and now they're

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requesting a reissuance of the warrant. Okay. Second one is they had the warrant the first time, it was never cashed, it's gone beyond a year, and now they want another check. I mean, there has to be some point in which we recognize and say we are trying everything that we possibly can to ensure that you get what is due you, but at the point we have to say you've run out of opportunities. I think Senator Stuthman pointed that out. Now, I don't know if \$80,000 is much money to them or not. That's really irrelevant to me. It's the reality of the process. So I'm going to rise in support of Senator Wehrbein's amendment. I hope that the body would as well. I think that it's important for us to look at these individuals that are requesting the warrants and to say, we have a rule, we have a process in place, and if you don't follow that process there's going to be consequences. And so I can stand in support of Senator Wehrbein's amendment. Thank you, Mister...Madam President.

SENATOR SCHIMEK: Thank you, Senator Erdman. Senator Preister, you're recognized to speak.

SENATOR PREISTER: Thank you, honorable President, friends all. On the streets they say, you snooze, you lose, and I think the principle applies here. Senator Wehrbein brought this amendment, and this is not a precedent, Senator Wehrbein. Last year on this bill, before it got out of committee, I proposed an amendment to take two similar claims out of the claims bill. One was where a warrant had been issued three times over, I believe it was, a period of ten years, and they somehow couldn't get the check to the bank. I mean, I challenge the state to write a check to me and see if I don't cash that check, in any amount. I challenge anyone to write me a check and see if I don't cash it. I mean, you've got to have a procedure in place and you do need to make sure that you get those warrants to the bank if you really want the money. These companies, in the past, were more egregious last year, and that's why I did similarly, and I had to argue for that in the committee. This year, I do sit on the committee and I felt like maybe these weren't quite as egregious oversights. But as I'm hearing now, perhaps when two warrants have been issued the state is expending additional funds. We're taking legislative time now.

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The Claims Board had to take more time. These warrants are actually costing us even more money. And so, at this point, even though I felt a little bit more lenient, I suppose, in the committee to approve it, Senator Wehrbein, I agree with your concept and will support this amendment. And I do want to send the message out to people, if the state issues you a check, cash it. It's as simple as that. If you don't have good procedures in place, that's not good business practice, and maybe you should look at your business practice and maybe you should implement some changes to make sure that the money that is rightfully yours is rightfully claimed within a year, and you have an entire year to cash that warrant. So don't snooze and you won't lose. Thank you.

SENATOR SCHIMEK: Thank you, Senator Preister. Senator Beutler, you're recognized to speak.

SENATOR BEUTLER: Senator Schimek, members of the Legislature, I told Senator Mines maybe these folks ought to be delivered the ultimate...the ultimate insult from their particular perspective, that is, that they're running business like the government. (Laughter) But, having said that, I also think it's extremely unfair to take away all of their money, in the sense that these aren't...there is no claim here but that they didn't deliver the services that they were asked to deliver, that they didn't do it for a fair price. Have they been negligent? Yes. And I think it would be appropriate, as some other service institutions might do, a bank might do, to assess some kind of penalty or charge for coming back once, and a higher and bigger one for coming back twice. Because Senator Preister is certainly right, there is...there is a charge involved and all 49 of us sitting here and talking about this for a half hour at our salaries, that's a whole 10 bucks or something. (Laughter) But the point being, there is a cost to everybody for their negligence, and they ought to be penalized for that. But I don't...having been in a...run a small business myself at one point in time, these things can happen to companies, and I think they ought not to be penalized for the whole amount of the work that they did because they missed a one-year...a one-year deadline, especially if it's the first and only time they've done it. And even if it happened twice, why

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not set up a system where there's penalties becoming more and more substantial if you do it more than once, but not...but not take from them all the money. And I would hope in this instance that you would reject taking everything from them. And if Senator Cunningham wants to suggest some sort of penalty that might be applicable in each case, that would seem more reasonable to me. Thank you.

SENATOR SCHIMEK: Thank you, Senator Beutler. Mr. Clerk, do you have items for the record?

ASSISTANT CLERK: Madam President, I do. Your Committee on Enrollment and Review reports LB 117 to Select File with amendments. I have amendments to be printed: Senator Baker to LB 343; Senator Raikes to LB 425; Senator Pederson, LB 425; Senator Byars, Senator Mines, and Senator Bourne, all to LB 425; and Senator Chambers, several amendments to LB 425. I have a motion to reconsider the vote on AMI374 (re LB 425); and an amendment from Senator Stuthman to LB 425 to be printed. That's all I have at this time, Madam President. (Also amendments by Senator Chambers to LB 427, Legislative Journal pages 1371-1376.)

SENATOR SCHIMEK: Thank you, Mr. Clerk. Senator Redfield, you're recognized to speak.

SENATOR REDFIELD: Thank you, Madam President, members of the body. I also rise in support of Senator Wehrbein's amendment. I once served on the Business and Labor Committee before there was a big bounce, and I remember that year that we had a series of claims that came before us and we heard in a public hearing the stories of the people as they protested why they were entitled to money, and I will tell you that they were honest mistakes, but the statute of limitations had run out. And the one thing that I thought about as I weighed that decision was all of the law-abiding citizens in Nebraska who had similar circumstances, perhaps mistakes that were made that would have been in their favor but they recognized that when they checked the statute books that in fact the time had run out and they could no longer enter a claim for that dollar amount because the statute of limitations had run out. And, therefore, they did

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not come before us and tell us their sad tale of woe, and they did not request the money. We all have deadlines. There are filing deadlines for an election. If you miss it, you missed it. Now, Senator Beutler has proposed that we might have some kind of penalty, and if, in fact, we had a series of penalties in place we might do something like that, but we do not have any provision in statute to issue a penalty here. If we had a longer period of time before the statute of limitations ran out we could also make adjustments, but in fact right now we have in place a set period of time for the statute of limitations and it has run out in these instances. And so in fact I'm going to support Senator Wehrbein's amendment. I supported it when we did it when I was on the Business and Labor Committee. I remember that argument on the floor and we decided that it was unfair to those who abided by the law and tore up the check that had expired and said, I made a mistake, that wasn't very smart of me, but I'm going to have to take the penalty for it and lose the money. And so I'm going to stand up and support Senator Wehrbein's amendment. Thank you.

SENATOR SCHIMEK: Thank you, Senator Redfield. Senator McDonald, the Chair recognizes you.

SENATOR McDONALD: Madam President and members of the body, I also stand in support of Senator Wehrbein's amendment. That situation that Senator Cudaback spoke of was actually in my district and it was a gentleman there. Was a single proprietary business and it was a large sum of money that he overpaid for his taxes. And it was a very unfortunate thing, and the statute of limitations had run out and he was denied that refund. And so it's a concern that we stay consistent in all of those things. We can't do it for some and not do it for others. If that is the law, it's the law. The check runs out, it's gone. If you have a certificate that expires on a certain day then you, you know, you usually have a year or whatever the time frame is, and when it expires, it expires. And so it makes us all better business practitioners and we learn to abide by our rules. And our own rules say a year and then it's done. So I'll turn the rest of the time back to the floor. Thank you.

SENATOR SCHIMEK: Thank you, Senator McDonald. Senator Bourne,



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you are recognized to speak.

SENATOR BOURNE: Thank you, Mr. President...Madam President. I'm sorry. I apologize. (Laugh) Would Senator Wehrbein yield to a question?

SENATOR SCHIMEK: Senator Wehrbein.

SENATOR WEHRBEIN: Yes.

SENATOR BOURNE: Senator Wehrbein, on...in Senator Cunningham's explanation of what he's trying to do here, it appears to me that there's three expired warrants that he's asking the Legislature to approve to reissue. Does your amendment strike all three?

SENATOR WEHRBEIN: No, it strikes claim 4 and claim 5.

SENATOR BOURNE: Okay, so the third, the one filed by Ponderosa Ranch for 20, almost \$26,000, that's not...that's...why is that okay and the other two are inappropriate?

SENATOR WEHRBEIN: Well, I don't have a good reason. I picked the other two because they...the limitations had run out. I'll admit I don't have any good reason, I guess.

SENATOR BOURNE: Thank you, Senator Wehrbein. I'm struggling as to what to do here. I do think if we are going to make a statement that warrants that are expired shouldn't be reissued, it should be consistent. And I'll be honest with you, I don't know Ponderosa Ranch, I don't know Nelson Brown Equities for Arrow Energy, and I assume US West Communications is the phone company but I'm not even sure of that, so I'm really indifferent as to all three of these. But I do want to point out, for the benefit of the members, what a statute of limitations means, and hopefully there will be some other attorneys or people that will stand up and say that. As I understand the statute of limitations, it means that once that expires the entity that might have some sort of liability can rest easy, for lack of a better word. That means that you can't be sued after a certain period of time. The state can't charge somebody with a

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particular crime after a certain period of time after the claim has occurred...or the crime has occurred. Now, of course, there's some exceptions, murder and some of the other...maybe other criminal proceedings, that you can't initiate after a certain period of time. The point of the statute of limitations is it gives a person a level of comfort after a certain day that they will no longer be obligated or sued or prosecuted for a particular offense or conduct or action. As I see it, it's a little different here in that the state knew that it had these obligations and took it upon themselves to issue the check or whether it went through the Business and Labor Committee and for approval or if it was below the limit. And I'm quite...I'm really not familiar with the process. But the point that I'm trying to make is, this is not what statute of limitations is, or are, for. The state knew that it had these obligations. They're...yeah, these three companies or entities are guilty of sloppy bookkeeping or recordkeeping or business tactics or management, whatever you want to call it. It's sloppy; shouldn't reward that. But this is not what the statute of limitations is for. It's not to punish somebody for being negligent or sloppy. It's to allow the party that owes or might have some liability some comfort that they're no longer going to be prosecuted or asked to pay for a certain thing. The state knew that it had these obligations, and Senator Cunningham hasn't said that these obligations are in dispute, so I'm assuming that these are actually due and owing obligations of the state. Simply because somebody is sloppy and has poor bookkeeping doesn't mean that we should say, you lost it. The point of statute of limitations is to give an entity a rest-easy time. After a certain period of time, they have some level of comfort, whether it be from insurance purposes or what have you, that they don't owe that anymore. This case is different. The state knew that it owed this money and the committee, in my opinion, did the right thing by sending out these refund checks. Maybe we should come up with a process that says, as Senator Beutler mentioned, that if...

SENATOR SCHIMEK: One minute.

SENATOR BOURNE: ...if we have to renew the warrant, it's cut in half. Maybe that would encourage this. But this is not what

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statute of limitations is for. The state knew it had this obligation and I don't think we should punish these people simply because they're sloppy. I don't...I don't see anything wrong with that. This is our...this is our process. If a warrant is expired, that person can present themselves to the Business and Labor Committee and the committee can forward or reject those claims. They've felt they're payable. They've forwarded them to the Legislature, and I don't intend to support Senator Wehrbein's amendment. I think it makes sense. These are known obligations of the state. I think we should honor our obligations and pay them.

SENATOR SCHIMEK: Thank you, Senator Bourne. Senator Chambers, your light is next.

SENATOR CHAMBERS: Madam President, members of the Legislature, I have been approached by people, and have tried to help them, who had workers' comp claims, they've had appeals that needed to be filed, sometimes in civil, sometime criminal cases. The lawyer missed the filing date. And the court did not say to that defendant or that debtor, you are not going to be punished because your lawyer missed the filing date. That date is set there, by that I meant a certain number of days within which you have to file, and if you don't file, it's over. I don't...it's like the Omar Khayyam rhyme: Not all your piety nor wit can lure that finger back to cancel out half a line or erase a word of it. You know, the moving finger writes; and, having writ, moves on. When that statute of limitations kicks in, it's over, and Senator Bourne knows it. There are people who have had appeals that they could have filed in very serious cases, even involving the death penalty, and the date was missed. That is a procedural error, but a substantive right was lost. There was no way for the court to get around it. The statute had set the rules of the game, and no matter how high or low the stakes, the rule laid out by the Legislature said, if you don't act before this particular line is crossed, and the line in fact is crossed, you're out of luck. Cases are legion where that kind of decision has been handed down by a court. Courts in some cases may even castigate an attorney, but that will not lead the court to undo the damage that resulted from the statute of limitation. I'm calling it a statute of limitation. The filing

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deadline was missed. So Senator Bourne kind of fuzzied up this issue of how a statute of limitation operates. Courts have stated that the purpose of the statute of limitation is to bring an end to litigation. It's a specific, identifiable, precise point in time when everything is over, unless something has happened in the meantime to toll or prevent that statute of limitation from having effect in that particular proceeding. Here you're not dealing with a tyro or somebody who is innocent, naive, and doesn't know anything. You're dealing with multimillion-dollar company, in one example, and another operation that makes I don't know how much money. I'm glad Senator McDonald pointed out a detail in the case where we rejected the individual's claim. This is where the individual did not perform a service but gave money to the state that was not due and owing. The state kept that money. The state would not be required to give a refund of money paid in. So these people have engaged in more than simple negligence.

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: They forfeited the claim they had on the state for any money. Each person knows the value of what he or she does. If the value is insufficient to cause the person to move in a timely manner to recoup what he or she is entitled to, that is on that individual and not the one who received the benefit of the work done by the individual. If that is not the way it's going to be done, stop saying that these warrants have to be cashed within a certain period of time. The leniency or grace period was for those extraordinary situations. These two that Senator Wehrbein's amendment deal with are not extraordinary in any sense except insofar as the claimants showed a total...

SENATOR SCHIMEK: Time.

SENATOR CHAMBERS: ...disregard and unconcern. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Cunningham, it's your time to speak.

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SENATOR CUNNINGHAM: Thank you, Madam President and members. Obviously, we've got a policy discussion before us. And I have no real major interest in this. The body needs to decide what they want to do for the future. I personally am against this philosophically because Senator Bourne, I think, did a much better job of describing how I feel much better than I ever, ever could do. So I agree with Senator Bourne 100 percent. I could go along with Senator Beutler. He talked to me about when we do our interim hearing that we give some thought to a penalty. If they don't cash it you lose so much in the first year, and so much in the second year, that sort of thing. I would much rather see something like that. But as Senator Bourne alluded to, this really...I don't believe this is really a statute of limitations that we're talking about. I think it's more of an expiration of a check and the process to collect this check is to go through the claims procedure if you don't cash the check on time. So I believe it is strictly a policy decision. Whatever the body decides they want to do we're going to have to do. I do believe there's probably a problem with, as somebody alluded to earlier, we have three claims that are in this category. One of them happens to be just a rancher that sold some land to the highway department when they did road work. And if...you can read it. It's number 04-759, and they happened to be setting up a corporation at the time and the check was at the...in their attorney's office and didn't get cashed in time. So that becomes a problem. You've got just a...probably a small rancher that sold some land to the state who's going to lose this money, and I think that...I apparently have a different view than some of you, but I believe the state owes this money. So my vote will be against the amendment, but like I say, it is a policy discussion and if that's what the body feels we need to do, that's what we're going to have to do. And with that, I'm will return my time.

SENATOR SCHIMEK: Thank you, Senator Cunningham. Senator Beutler, your light is next.

SENATOR BEUTLER: Senator Schimek, members of the Legislature, I don't know any of these people at all that we're involved with either, but I would hope that we would look at changing the system prospectively, rather than abruptly making a change here

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on the floor. Senator Cunningham, let me ask you what you know about this. The state has what's called an Unclaimed Property Act. Right?

SENATOR CUNNINGHAM: Yes.

SENATOR BEUTLER: And let's say I have a title company and I have a trust account in that title company and a certain person out there is owed \$1,000. I send them a check for \$1,000 and it's never cashed. Okay. I, as the title company, cannot keep that money. That's unclaimed property, and I send it in to the state as unclaimed property. And then what does the state do? They take the name and they publish it in the newspaper and they look to see who owned it and they give it to them if they come in, and it might be five or six or seven years later. Now how can we reconcile what we're doing there with what is being proposed today? I think this whole area needs some sort of overview and some sort of systematic approach, and not the haphazard approach of taking two out of three claims on one day and doing it differently than we've done it in the past all at once. And even if you want to deal with it this session, wouldn't it be possible, Senator Cunningham, for you to come forward with some discount system, for lack of no...or penalty system that could be applied on Select File if we feel a need that we have to change the system this year as opposed to simply doing...looking at it partially here this morning or this afternoon on the floor? You could do that, couldn't you?

SENATOR CUNNINGHAM: Yes. I mean, that's what I would much rather do. I mean, my first choice would be to deal with it during the interim study and try to get all of the information before we do it. And if the body isn't willing to do that, we could definitely work with the interested parties and do something on Select File. I do have a memo that was given to me back in...this was written on May 11 of 2000, and they were talking about this issue back at that time and the Treasurer's Department thought that the state agencies, we needed to do a lot better job of, if we saw that there were warrants not being cashed, that we needed to notify people more often and try to get those warrants cashed. It is my personal feeling that the state owes that money. I mean, admittedly, it is sloppy

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business by not cashing the checks, but it could happen. It has happened to me in my business, admittedly, not in the thousands of dollars but more in the tune of two or three hundred dollars, and it was sloppy business on my part, but I was very grateful that I was able to get that money and I did feel I was owed the money. So I really would like to do something different than just eliminating these payments to these people. As I said earlier, it's an expired check, not really a statute of limitations, the way I understand it, and that's what the manager for DAS tells me, the risk manager. And sorry for using so much time, Senator Beutler.

SENATOR BEUTLER: That's fine, Senator Cunningham. Thank you. Thank you, Senator Schimek.

SENATOR SCHIMEK: Thank you, Senators Beutler and Cunningham. Senator Jensen, you're recognized to speak.

SENATOR JENSEN: Thank you, Madam President, members of the Legislature. Senator Cunningham, would you respond to a question?

SENATOR CUNNINGHAM: Yes.

SENATOR SCHIMEK: Senator Cunningham.

SENATOR CUNNINGHAM: Yes, I would.

SENATOR JENSEN: What does it say on the check? Does it say it must be cashed within 12 months?

SENATOR CUNNINGHAM: I believe it just...it does say that it's expired in one year of date of issuance, or something to that nature.

SENATOR JENSEN: Well,...and appreciate that. I think, by the way, the federal government does not give you any slack on this issue. I, a couple years ago, happened to receive a \$600 check for overpayment of taxes and so I thought, gee, this is kind of nice; I'm going to put this in the drawer and maybe my wife and I can do something with that, we can go on a trip or we can buy

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something or whatever. So about 15 months later I found the check, ran it to the bank, tried to deposit it, came back, said no. And so at the end of 12 months, I didn't have anything. And I really think if we have done this before, as Senator McDonald had mentioned, I think we have set a precedence and I don't think that we, as a state...certainly, in our bookkeeping, if it was an error that was done by the state that's another story, but when you issue a check and it's not deposited for any reason, I really feel that the time period is gone. How long should you maintain and keep records in accounting for those individuals that you write checks to? And particularly if it's written on the check that there is 12 months in which to be redeemed or no payment is received, to me, that's notice. And I would stand in support of Senator Wehrbein's amendment because, first of all, one, the federal government does not give any leniency and I don't believe that our taxpayers of this state also should do that. With that, I'll return the rest of my time back.

SENATOR SCHIMEK: Thank you, Senator Jensen. Senator Janssen, you're recognized to speak.

SENATOR JANSSEN: Thank you, Senator Schimek. Members of the Legislature, now I don't understand a lot about statute of limitations, so on and so forth, but listening to Senator Chambers, I would imagine that there would be no recourse for these people if this claim was denied. Now, could they...could they file suit for that money? I don't know. Maybe someone with a law degree could tell me that. But...and I do believe that if we're going to...if we're going to deny one of those claims, we should deny them all. Why should we just pick out...well, of course, the big one is US West Communications and the smaller one is from the Ponderosa Ranch, but I think if we deny one, we should deny them all. We shouldn't pick and choose. I know one thing. If I had a \$500 check sitting around, I'd make sure it was cashed. But I know in some of the bigger corporations, there are probably several files and they have to go through several different people within that organization before the darn thing is taken care of. Maybe we should...maybe we should look at making sure, when someone is issued that check, that it says, you know, in bolder letters



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than what it does, that this check is...has to be cashed within so many days. I think the discussion we're having here today probably will send a message to people who are going to get a return in the mail, they certainly know that it's coming, that they better get the darn thing cashed before statute of limitations run out. And I think our discussion here today will send a very good signal. And I'm not sure that we have done, you know, whether I want to do this today nor not, you know, we've done it before. Historically, we have allowed those claims, so I think we are treading on a little thin ice here, so I'm not sure how I...whether I'm going to support Senator Wehrbein's amendment or not. But I think we should probably...the discussion on the floor is going to send a very good message to those people, and I doubt very much whether it would happen again. With that, I'd return the rest of my time to Senator Bourne, if he'd like to have it.

SENATOR SCHIMEK: Senator Bourne, would you like the rest of Senator Janssen's time? There's about two minutes and ten seconds.

SENATOR BOURNE: I'd be happy to take that. Thank you. Thank you, Madam President, members. Thank you, Senator Janssen. Senator Chambers, Senator Chambers, Senator Chambers.

SENATOR CHAMBERS: Present. All present and accounted for, sir.

SENATOR BOURNE: Oh, I didn't ask for him to talk on my time. (Laugh) Senator Chambers wants to confuse you. He created this analogy that is absolutely inappropriate in this situation. He talked about charging someone in a criminal statute and they have a certain period of time and then they can rest easy. They know they're not going to be prosecuted after this date, or I think his example was is that the courts are filled, the decisions are filled, with criticisms from...by judges or to...or from the judges to prosecutor or to attorneys who miss deadlines. But that's for filing the claim. And it makes sense that there would be a statute of limitations in that regard, because if I want to sue Senator Aguilar for something he did three or four years ago, I don't even know what the statute of limitations would be, but after a certain period of time, he's

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able to rest easy because he knows that I can't sue him any longer.

SENATOR SCHIMEK: One minute.

SENATOR BOURNE: The difference here is that the state knew that it owed this money. These people were simply being careless. They had poor bookkeeping, sloppy bookkeeping. We owe this money. It doesn't matter that they were careless. It's an obligation of the state, and I can't make any clearer the difference. Senator Chambers talks about suing somebody, and you miss a deadline, you miss a deadline. That makes sense. But what happened here is we...is this person made the deadline to file a claim with the state and they did it, and then they just didn't follow through and cash the check. We have a mechanism in our statutes that if this happens it goes to the Business and Labor Committee, and that's what this person is doing, and yet somehow we're saying that, okay, that statute is not appropriate, let's take their money from them. And I don't agree with that. And I argued the same way two or three years ago, or whenever it was, when Senator Chambers tried to take the money...

SENATOR SCHIMEK: Time.

SENATOR BOURNE: ...from somebody else. I think we should pay this bill.

SENATOR SCHIMEK: Thank you, Senator Bourne. Senator Flood, you are recognized to speak. Senator Bourne, excuse me, were you on somebody else's time just now? I'm sorry, I should have called on you next then, and then Senator Flood.

SENATOR BOURNE: Thank you, Madam President, members. Again, I just want to say that we have a mechanism in place that if somebody misses or lets a check expire there's a mechanism where they can appeal. They have done that. They've gone to the Business and Labor Committee. The Business and Labor Committee, in their infinite wisdom, has said, all right, this is an expired check, it's not necessarily a statute of limitations. And I think Senator Cunningham put it well that it isn't. We're

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using the terminology statute of limitations, but it is more of an expired check. These people filed the claim properly. The state said it owed the money. And if you read...if you read the handout that Senator Cunningham gave, it says that we...Department of Roads recommended the claim be approved; the other one, the Department of Revenue recommended the claim be approved; and the other one, the Department of Revenue recommended the claim be approved. So what's happened is they let the warrant expire, they went and followed the statutory procedure to have it reissued and that's what we're talking about here. If you want to change the rules, change the statute, but I think we should pay these bills. I don't see this as a reward for sloppy bookkeeping. I see it as honoring the state's obligations and I think we should follow the committee's lead and pay the bill. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Flood.

SENATOR FLOOD: Thank you, Mr. President, members. This is like a lesson in continuing legal education with regard to accord and satisfaction. I may disagree with Senator Chambers and to some extent with Senator Bourne just on this point. In my opinion, the purpose of the statute of limitations is to preserve and protect evidence unless the state, in a criminal matter, for instance, has a legitimate interest in tolling the statute forever in the interest of prosecuting someone for murder or possibly sexual assault under Senator Thompson's bill. But applying the statute of limitations argument to this seems wholly unconnected, and I'll tell you why. Raising the statute of limitations, first and foremost, would be an affirmative defense that one litigant would have to raise in a civil action or, for that matter, a defendant in a criminal action. Here we have before us valid undisputed debts. Let's suggest for a moment that we pass FA222 and deny, here and after, every claim that results from a warrant that expired after one year. If I was the claimant or the payee of the warrant and I performed a service for the state of Nebraska, for instance, let's say I landscaped the State Capitol lawn for an entire year, I submitted my bill for \$50,000, I failed to cash the check, the

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state refuses to honor my claim by reissuing the check after a year, wouldn't I still have an action in unjust enrichment against the state of Nebraska? Because I provided a service for a bargained-for price; it's a valid debt of the state; the state denies my warrant because it expired under the terms of the warrant; however, I have not been paid. That seems to me to be actionable under the theory of the common law unjust enrichment, and I would still have time, under the statute of limitations that applies to contracts, I believe two years in the state of Nebraska. So if we're going to be consistent, let's make sure that it follows the statute of limitations for a contract civil claim in the state of Nebraska, because I could still sue the state, and I think that's important to note, if you want to get down to the brass tacks. Let's assume for a second that we're talking about a disputed claim. If I have a dispute with the state of Nebraska and I have two years to file my claim, if I cash that check, under the Uniform Commercial Code, Section 3-311, that is accord and satisfaction. If I sign the back of the check, I cash it at my bank, that essential...and let's say, for instance, you know, the state is paying me for the claim that I had submitted, I now say it's different, whatever the facts may be, I have essentially foreclosed any opportunity to pursue any action against the state of Nebraska because, under the Uniform Commercial Code, I have essentially said I have been paid everything that has been in dispute. Now, that assumes facts that I haven't already discussed. But I think that we should tread lightly on denying state warrants or denying these claims. I think it should be difficult for somebody that's negligent in cashing it and essentially going through the Legislature on LB 737 would seem to be a fairly difficult route to wait for the state of Nebraska to approve my claim. I think that's reasonable. But let's not open ourselves up to...

SENATOR CUDABACK: One minute.

SENATOR FLOOD: ...a claim of unjust enrichment or involve ourselves in a situation where we're making decisions on a year that the Uniform Commercial Code may decide differently with our statute of limitations in civil court. It seems to be very confusing. This is also a confusing route that we're going but,

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if it's any peace, I think this is less confusing than what we could be doing if we pass this floor amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Flood. Senator Beutler, on the Wehrbein FA222.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I agree with much of what Senator Flood has said and Senator Bourne has said, but I think...I think the analysis is even simpler. If you have a statute of limitations, that's it. You have one statute. You have a statute of limitations. But this is not a statute of limitations kind of situation. In this situation, you have a kind of limitation, a one-year period for the payment of the warrant, but that's not all you have. You have in statute also a means of addressing a problem in the event that you miss that deadline, and that's the State Miscellaneous Claims Act, and it says you can use this for any claim against the state for which there is no other specific provision of law for the resolution of such claim. And these kinds of late payments have traditionally been accepted by the State Claims Board as a miscellaneous claim, and there's a whole procedure set out here whereby you can do that. In other words, we are actually saying that the absolute deadline of one year is not an absolute deadline; there is a process that you statutorily can go through that's described here, and the bottom line is that it's up to the state, with the recommendation of the state risk manager, to do what they think is fair in an individual situation. And so doing...following this process is a matter of what's in the statute now and so, once again, I would argue that, before you change things, that you look and see what's in the statute and you decide how you're going to change things in some uniform method rather than starting out right here on a couple of particular claims. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Cunningham, on the Wehrbein amendment.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. I appreciate all of the discussion on this. It certainly evolved into a little more than I anticipated. My preference would be,

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as I stated earlier, to talk about this in an interim study and do something for next year. But I would stress that I believe this is just an expired check, and the process says if you have an expired check you're supposed to go through the claims procedure. So I believe that those people are doing everything that they should do and, as I've said many times before during this discussion, it is a policy decision on your part, but I really truly wish that we could wait and work this out, get a little more information and try not to make a rash decision. I would wish we could do it this summer and fall and come to you next year. If we want to change the policy, we need to change the statutes completely. Thank you. I'll return my time.

SENATOR CUDABACK: Thank you, Senator Cunningham. Senator Erdman. Senator Erdman, that will not be necessary. There are no further lights on. Thank you anyway. Senator Wehrbein, you're recognized to close on FA222.

SENATOR WEHRBEIN: Thank you, Mr. President, members of the body. I really didn't intend for this to go this far, but I will disagree with a couple of the statements that said that this has happened this year, we ought...it seems like to me, in my 19 years here, we've had something like this nearly every year where we've had expired warrants and we decide what to do. And it's been my observation that it's ended up being somewhat subjective as to whether we should do it or not. That's when it ultimately reaches this decision, there's got...there's...in spite of the fact you're trying to be objective, particularly in the Business and Labor Committee, we end up being somewhat subjective. And I remember a couple years ago when we had the one on the printer. And my mind says we had that two years in a row and we decided to turn it down. But, to me, it's not so much a statute of limitations. That's an issue for lawyers. This is, as it says on the check, expires in one year. To me, it's a matter of discipline in accounting procedures. I don't know how long we can let a check run. It doesn't bother me if you want to...if we're going to let a check hang out there for ten years and somebody brings it in and you do it. I understand that. I understand Senator Beutler's where we turn it over to lost and found, if you will, unclaimed credits. But somewhere along the line we have to have some discipline in our state

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system and we're just as entitled to it as anybody else. Senator Jensen made the remark, feds don't. How many of you missed a credit card payment? Most cases...(laugh) I haven't done that for years. It's too darned expensive. But unless you can talk them out of it, a deadline is a deadline, is a deadline. And I don't really have a problem. I've debated about withdrawing this, in a sense, but I think something ought to be done that if you have a warrant out, maybe it's you only get half if you have an expired check. I remember back in county board days, if people missed assessing deadlines, if they missed this, if you missed your homestead exemption, we have firm dates. And I don't know whether it's in statute that we have a year on the check. It probably isn't. But, to me, once again, it's a matter of discipline and the fact that we can't let this hang out forever. And I...maybe it's somewhat arbitrary. The reason I really didn't do the one above on Ponderosa Ranch is because it said that the check...that it was originally stuck away in a file while the corporation was being established. So it doesn't really even sound like...it sounds like it was the attorney's problem, not the owner who was entitled to the check. So it's somewhat different. Understand Senator Chambers may have an amendment to take that one, too. So I'm still struggling whether to withdraw this, make the case, or move on. I don't...I didn't intend to waste the body's time. I think I will withdraw it, Mr. Speaker, Mr. President. And suffice it to say, if there can be something worked out (laugh) with Senator Cunningham, I'd like to see something, a study on this or something. But I think a check ought to be a check, ought to be a check, and I don't know whether it's in statute on the one-year limitation. So I'll withdraw, but I...

SENATOR CUDABACK: It...

SENATOR WEHRBEIN: ...think it is an ongoing problem. I think I've seen it here every year and I just simply believe that we ought to have some discipline on it. Thank you.

SENATOR CUDABACK: FA222 is withdrawn. Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to amend, FA223. (Legislative Journal page 1377.)



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SENATOR CUDABACK: Senator Chambers, you're recognized to open on FA223 to LB 737.

SENATOR CHAMBERS: Mr. President, members of the Legislature, not having looked at the language of Senator Wehrbein's amendment, I thought the Ponderosa Ranch was included because when he was talking to Senator Cunningham he had said, maybe you want to look on this page and check this other one, too, so I thought that the Ponderosa Ranch had been on one page and then US...Qwest, or whatever it was, was on the other page. But there were two others, not including the Ponderosa Ranch. Senator Bourne came to me and asked, why would I say that all of these things should apply when a person misses the time for cashing the check and not apply to the Ponderosa Ranch; is it because one is a rural ranch-type setting? I said, well, it's in there. He said, no, it's not. He showed me the actual claims that were the subjects of Senator Wehrbein's amendment. And I sputtered around showing him a difference, then came over here and drafted an amendment to strike the Ponderosa Ranch. That's what is before you now. And I'm going to reoffer Senator Wehrbein's amendment. He was correct. Other senators spoke in favor of what he was doing for the arguments he and others had given. Maybe he felt that if he withdrew his amendment, I would withdraw mine on the Ponderosa Ranch. They are distinct. There can be differences shown in the circumstances. So, rather than offer all three of them at the same time, I'm going to reoffer Senator Wehrbein's amendment, and we should take a vote on that. Large corporations have responsibilities. Some are impressed with what the courts call a public duty even though they call themselves private. They are so widespread and broad in what they do and their impact is such that they're treated as though they are a public corporation, a public entity, and they're held to that standard. Corporations are eternal persons. They are treated just like a natural person. The Fourteenth Amendment did not envision that, but that gave the basis for creating an artificial person, and that's what a corporation is. So it exists forever, unless something happens that terminates its life under the law. These large corporations have house counsel, and they can retain specialized counsel if necessary. More than sloppiness is involved here. Sloppiness is something



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that you might ascribe to an ordinary person who does tend to become distractive...distracted, maybe inattentive, due to the pressure and the pressing in of other matters. A corporation cannot make that claim. I think Senator Wehrbein's motion was entitled to a vote, and that's why I'm going to offer it. Now, you may see a distinction, as Senator Wehrbein pointed out to you, between the circumstances involving the Ponderosa Ranch and these other two that were the subjects of his amendment, so before you is my amendment, which on the appropriate page would strike the appropriate lines. I believe if you look on your gadget you'll probably see where that is, but for the record I will state it. On page 2, strike lines...let me look. Oh, that's the Wehrbein amendment because that's the one that I want also. The one that we're considering now will be, on page 2, strike lines 20 through 23. What I'm going to do, so that we can get to the Wehrbein amendment, and that's the one that I wanted to vote on, Mr. Clerk, I would like to pull the amendment that I'm discussing now and refile it after FA...I'll give the number...224. I'd like to withdraw FA223 at this time and refile it after FA224.

SENATOR CUDABACK: So ordered.

CLERK: Senator Chambers would move to amend with FA224. (Legislative Journal page 1377.)

SENATOR CUDABACK: Senator Chambers, to open.

SENATOR CHAMBERS: Mr. President, I'm so unaccustomed to hearing the Clerk speak with his froggy voice, I thought we had fallen into The Exorcist (laugh) for a minute; then I remembered. As Senator Bourne said, he probably could use some Sudafed, but because of what we have been discussing, if he went for it...people think that when a bill passes first round that it is passed, so here's what they would say. They'd call a cop. They'd say, this guy (laugh) came in here with this...he got this scratchy voice and looks kind of scruffy and rough; he's got a beard, got long hair, and he drives a Cadillac. And the cop would say, that's probable cause. They'd put out an "all-PB" and the next thing we know the Clerk of the Legislature has fallen into the clutches of the law. Anyway, since the

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amendment that I'm bringing now is the one that Senator Wehrbein had offered, and I think the discussion has been full and fair, I will not say anything more on it. I'm going to get a vote on that amendment because I think the Wehrbein arguments, when he first presented it, are compelling. They still are. And others who spoke in support of it gave cogent reasons why we ought to deny these two claims. So that is the amendment before you and, Mr. President, I will see whether I need to say anything else. But thank you.

SENATOR CUDABACK: Thank you. You've heard the opening on FA224. Open for discussion on that motion. Senator Cunningham, followed by Senators Beutler and Bourne. Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. I've gotten some more information and I think we might be opening ourselves up for some problems. We...there were approximately 245 claims that were filed, but the claims managers, they can...or the Claims Board can pay claims under \$10,000. So a large number of those claims have already been reissued and paid, just simply because they're under the \$10,000. So basically what we're doing here is we're penalizing the ones that are a larger amount, and I would think that could be opening ourselves up for some problems. Not being an attorney, I'm not sure of that and I've not discussed this with legal counsel. But again, I would reiterate that I think the best way to do this is wait till this summer and fall and do the interim study and really get into this, and if...and bring a bill before the Legislature next year and change the process for both the large and the small claims. So I very much would hope that we don't...we don't pass these amendments right now. I would hope that you would work with us and let us work on it this summer. When I get done here, I'm going to go over and talk to Senator Chambers and see if we can discuss this a little bit more. But if any more of you have any other questions, please ask, but I'm going to turn my time back and go discuss this with Senator Chambers.

SENATOR CUDABACK: Are you finished, Senator Cunningham?  
Senator Bourne.

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SENATOR BOURNE: Thank you, Mr. President, members. And Senator Cunningham had expressed what I was going to talk about. There's been 290-some checks that were reissued that were below \$10,000. These three are those checks that had expired that were over \$10,000. And again, I just want to reiterate, these three individuals followed the process. The process says, if it's over \$10,000, you file an appeal or you present yourself to the Business and Labor Committee and they make the decision. They have. I think we should stick with that. And if somebody wants to introduce legislation to change that, then, you know, that would be appropriate and we can discuss that then. But again, I'm going to vote no on Senator Chambers' amendment and support the committee's work. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to engage in a little conversation with Senator Bourne, if he would be so kind to answer a few questions.

SENATOR CUDABACK: Senator Bourne, would you yield?

SENATOR BOURNE: Certainly.

SENATOR STUTHMAN: Senator Bourne, you know, I appreciate the fact that you're bringing up the legal part of it and, in my opinion, you know, those checks are really cash. They're just a document.

SENATOR BOURNE: If I could just interrupt, I'm bringing up what I think is the right part of this. This is the right thing to do.

SENATOR STUTHMAN: Is there...is there at any time when the state or a county can cancel a warrant after an amount of time? Do you know any portion of that?

SENATOR BOURNE: I don't. But again, my point, Senator Stuthman, is that these checks say they're void or expire after a certain number of dates, but the law establishes a policy by

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which that person can appeal the expiration of it, and they did. They went through the Business and Labor Committee. And I'm simply arguing that they followed the process and, in my mind, the state has an obligation to pay this.

SENATOR STUTHMAN: Yes. And the reference that I'm trying to refer to, as I remember as serving on the county board, that there was a time when we did cancel some warrants to individuals. It was after four...three, four years, you know, when they never did come up, but they were never reissued or the individual never went through the process of trying to get them reissued. Because realistically, you know, that warrant was dollars. So, but I do remember at one time we did cancel some outstanding warrants.

SENATOR BOURNE: I guess what I would ask you, Senator Stuthman, is that the difference, though, is that you knew that you owed that money, as a county official, and so you paid it. Now, there might have been an administrative reason that after four or five years you decided, you know, you needed to close that accounting entry, so to speak, but you knew you owed the money. We know we owe this money. And these things are only two years old. And I...you know, you're talking four or five years, and that makes sense to me. I mean, there does have to be a certain time, and maybe Senator Cunningham can indicate. There has to be a drop-dead date, I agree with that. But you know, again, they went...these three entities, while they might be sloppy, they went about the process the right way and I think we should honor the state's commitment.

SENATOR STUTHMAN: But when we did cancel these warrants, you know, there was notification, public notification, as to our agenda, as to, you know, what warrants we were going to cancel. So, you know, there was notification. But realistically, the reason I think they did it at that time on the county level was to clear up their books from, you know, years and years ago and that was...

SENATOR BOURNE: And that makes sense. But, you know, if we were to deny these here today, this afternoon, we would not be providing the same notice that you deemed appropriate when you

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were on the county board.

SENATOR STUTHMAN: Yes, that's very true. Because these are, you know, actually current. I mean they're, yes, they're a month overdue, but you know they're still cash, in my opinion.

SENATOR BOURNE: Right.

SENATOR STUTHMAN: So, you know, I...you know, I'm glad we've had the conversation today, you know, to alert people that we are concerned about it, but you know, in my opinion, realistically, they still are a dollar amount. They haven't been withdrawn from that account that they were issued from. I mean, I would really enjoy the fact that when I paid money to individuals that they wouldn't cash them. That would be cool. So with that, thank you.

SENATOR CUDABACK: Any further discussion on FA224? Seeing none, Senator Chambers, you're recognized to close. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I emphasize, I would like a call of the house, Mr. President. Mr. President, I would like a call of the house.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

CLERK: 13 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. Senators Jensen, Janssen, Byars, Engel; Senators Schimek, Fisher, Howard, McDonald; Senators Price, Redfield, Kruse, and Mines; Senator Thompson and Senator Kruse, Senator Redfield, Senator Price, Senator Mines, Senator Howard, Senator Fischer, Senator Byars. The house is under call. All members not excused please check in. Senator Chambers, your time is

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running, as you know.

SENATOR CHAMBERS: Mr. President, how much time do I have left?

SENATOR CUDABACK: About two and a half minutes have elapsed, so you have about two and a half minutes left.

SENATOR CHAMBERS: Thank you, Mr. President. I will wait.

SENATOR CUDABACK: Senator Fischer and Senator Mines. Senator Fischer, the house is under call.

SENATOR CHAMBERS: Mr. President, for those who just came in, you will see my name attached to this amendment. It is the amendment that Senator Wehrbein had offered that we discussed and, at the last minute, he decided to withdraw the amendment. Because I am convinced that his amendment was right, the discussion supported the amendment, I think it ought to go to a vote. So I reoffered the precise amendment that Senator Wehrbein had offered which the body had discussed, and at this time I'm asking that you agree to the arguments or accept the arguments that have been given and vote yes on this amendment, and we'll strike those two claims from the bill. Thank you, Mr. President, and I will take a machine vote.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the closing on FA224. The question is, shall that amendment be adopted? All in favor vote aye; those opposed, nay. Have you all voted who care to? The question before the body is the Chambers amendment, FA224, to LB 737. Senator Chambers, for what purpose do you...?

SENATOR CHAMBERS: Roll call vote in reverse order.

SENATOR CUDABACK: Been a request for a roll call vote in reverse order. Mr. Clerk, when you get time, please call the roll.

CLERK: (Roll call vote taken, Legislative Journal page 1377.)  
13 ayes, 21 nays, Mr. President.

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SENATOR CUDABACK: The amendment is not agreed to. I do raise the call. Mr. Clerk, next motion.

CLERK: Senator Chambers would move to amend with FA223.

SENATOR CUDABACK: Senator Chambers, to open on FA223 to LB 737.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I can read the writing on the wall. My colleagues are hungry. (Laughter) So I'm going to withdraw this pending amendment.

SENATOR CUDABACK: FA223 is withdrawn.

CLERK: I have nothing further on the bill, Mr. President.

SENATOR CUDABACK: Discussion of the bill itself, advancing to E & R Initial? Seeing no lights on, Senator Cunningham, you're recognized to close.

SENATOR CUNNINGHAM: Well, thank you, Senator Cudaback and members. I appreciate the discussion. Even though that amendment did fail, I will work between now and Select File with Senator Chambers and Senator Wehrbein and Senator Bourne. Anybody else that wants to work on this, talk to me, because we do need to get to the bottom of this. We shouldn't be having this argument every year. So give me your ideas and we'll see what we can do on Select File or for an interim study this fall. And with that, I would appreciate your green vote on the bill.

SENATOR CUDABACK: You've heard the closing on advancement of LB 737. The question before the body is, shall LB 737 advance to E & R Initial? All in favor of the motion vote aye; those opposed to the motion vote nay. Voting on advancement of LB 737. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 37 ayes, 1 nay, Mr. President, on the advancement of LB 737.

SENATOR CUDABACK: LB 737 does advance. We will pass over LB 348. We go to General File, 2005 committee second priority

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bills. Speaker Brashear, you're recognized to make that announcement rather than the Chair.

SPEAKER BRASHEAR: Mr. President, members of the body, a little communication. For the first time this session, I am having to ask us to pass over a bill at the request of a sponsor and others who are interested in it. We will pass over LB 348, but I wanted to utilize this...and everybody else affected by that on the agenda has been alerted. I'd like to utilize the opportunity to indicate that we will adjourn at approximately 7:00 or slightly thereafter this evening out of consideration for some activities which are taking place in the Rotunda with which I don't want there to be a conflict. There's music and that sort of thing. Secondly, we should plan on...that we will not be...any time we have an evening, it will be 7:00 or later, and for tomorrow night please plan "or later." The agenda should be published soon. Let me also indicate that I think until we have some relief in our workload here that we will need to forego the noon recess on the last day of the week and we should think in terms of 2:00, as was previously the tradition before we did the new scheduling. But I will try to maintain the late morning first day, 10:00 a.m. start. So those are the changes in the schedule that I think are necessary in trying to fulfill our responsibilities, and if you should have any questions, I know you'll ask them, and I'll try to send signals like this so that we all don't have to wonder when we're going to adjourn and that sort of thing, and we'll try to make it more standard so you can rely upon it. But 7:00 tonight; plan later tomorrow night. Thank you.

SENATOR CUDABACK: Thank you, Speaker Brashear, for the update. Mr. Clerk, items for the record?

CLERK: One item, Mr. President: a hearing notice from Government, Military and Veterans Affairs. That's all that I have. (Legislative Journal page 1378.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to General File, 2005 committee second priority bills. As stated by the Speaker, we will pass over LB 348. Mr. Clerk, next bill will be LB 364.



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CLERK: LB 364, introduced by the Retirement Systems Committee. (Read title.) Introduced on January 11 of this year, referred to Retirement Systems, advanced to General File. I do have committee amendments, Mr. President. (AM1210, Legislative Journal page 1207.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Stuhr, Chairman of Retirement Committee, you're recognized to open on LB 364.

SENATOR STUHR: Thank you, Mr. President and members of the body. LB 364 is a comprehensive technical bill that would make changes to the Class V School Employees Retirement Act. These changes would extend only to those school employees covered within the Class V School Employees Retirement Act, which includes Omaha Public Schools employees. These proposed changes were brought to the Retirement Committee by the board of trustees for the Omaha School employees retirement system. And LB 364, briefly, proposes the following technical changes. A thousand hours of work would be defined as a year of service. This provision would require the member to complete 1,000 hours of service in order to receive credit for a full year of service. Currently, membership service has not been defined and has varied depending on the member's contract. This change would define a year of service as a fiscal period in which the member completes 1,000 hours. According to the committee actuary, the use of 1,000 hours is the standard for retirement plans, and is typically used to define credit for earning a year of service. Also, fractional years would be measured in tenths. Currently, fractional years of service have been measured in half-years. This change would measure fractional portions of a year in tenths, with one-tenth earned for each 100 hours. According to the committee actuary, practices vary for fractional years. But this approach is often utilized. Next, the method for purchasing prior years of service would be changed in order to replace the existing procedures for purchasing prior service credits. As proposed, the years of purchased service from outside school districts could not exceed the member service in the Omaha Public Schools. Any service within another school district that has been reflected in the

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calculation of the retirement benefit received by an employee or...which is eligible to be received, would not be able to be purchased. Once that credit has been purchased, it would be applied to increase the members' retirement benefit from the Class V retirement system. According to the committee actuary, these are reasonable changes that have no adverse impact on the retirement system. By limiting the amount of purchased service, the retirement system's outstanding obligation should actually be smaller. Finally, changes would be made for the determining the eligibility of a designated beneficiary. This proposal introduces a technical change that would increase the acceptable age difference of a designated beneficiary, and a member who selects the joint and survivor retirement option. According to the committee actuary, the expansion in the eligible age range for member and their beneficiary does not increase the obligations of the retirement system. With that, that is the introduction of the bill, Mr. President. And I return the rest of my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Stuhr. There are committee amendments, as stated by the Clerk. As Chairman of the committee, Senator Stuhr, you're recognized to open on AM1210.

SENATOR STUHR: Thank you, Mr. President and members of the body. The committee amendments actually become the bill. And it would amend LB 364 by adding language found in three retirement-related bills. And you all have received that handout, and that is LB 365, LB 366 (sic), and LB 691. And each of these bills was passed out of committee unanimously. And I will first speak about LB 365. LB 365 would permit members of the Public Employees Retirement Board who represent the five public retirement systems administered by the board to be either an active or a retired member. And currently, some member positions are only limited to being active employee participants. The proposal would maintain the current number board members at eight. I believe I misspoke earlier. It was LB 367 instead of LB 366. And I'll give you just a brief summary of LB 367. And it would permit the Public Employees Retirement Board to charge counties a late fee, in an amount equal to any costs incurred by an employee member within the

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county employees retirement system. Such costs would be as a result of late receipt of retirement contributions, transferred by a county employer to the board. The bill would also permit the board to change...to charge a late administrative processing fee upon both district and county courts, not to exceed \$25, if information and money required by Section 24-703.03 are delinquent or are not timely received by the board. And we found out last year that some of the county was not submitting these fees appropriately on time. And the committee thought best that we do set a penalty, not to exceed \$25. LB 691, as amended by AM1032, would create the County Employer Retirement Expense Fund, and the State Employer Retirement Expense Fund. Each fund would consist of monies resulting from any reduction in a county or a state employer's contribution amount, that otherwise would be required to fund future service retirement benefits, or to restore employer accounts, or employer cash balance accounts. Whenever an employee terminates employment with either a state or county employer, prior nonvested employer contributions are forfeited. These funds are first used to pay for cash balance plan expenses. But when such funds exceed these expenses, they are then used to offset future employer contributions. This amendment would utilize these foregone employer contributions to fund additional administrative expenses relating to both the cash balance benefit and the defined contribution benefit for both state and county employees. Finally, committee amendment AM1210 makes some additional technical corrections to the definition of "compensation" found in Section 79-902. The amendment would insert language to clarify when a school district is required to make a specific compensation report to the Nebraska Public Employees Retirement System. This provision would also make technical corrections to sections currently adopted within LB 503, which was passed earlier this year by the Legislature. With that, that is the amendment. And I would ask for your adoption of this amendment. Thank you.

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: Thank you, Senator Stuhr. Mr. Clerk.

CLERK: Mr. President, Senator Stuhr would move to amend the

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committee amendments with AM1293. (Legislative Journal page 1278.)

SPEAKER BRASHEAR: Thank you. Senator Stuhr, to open.

SENATOR STUHR: Thank you, Mr. President and members of the body. This is a very short, technical correction. And it is needed to make some clarifying...certain provisions in AM1210. And I would ask for your support in adoption of this amendment. Thank you.

SPEAKER BRASHEAR: Thank you, Senator Stuhr. Speaking to the amendment to the amendment, Senator Beutler.

SENATOR BEUTLER: I don't wish to speak to the amendment to the amendment, Mr. Speaker.

SPEAKER BRASHEAR: Thank you, Senator Beutler. Is there further speaking to the amendment to the amendment? Seeing none, Senator Stuhr, you're recognized to close. Senator Stuhr waives closing. Members, AM1293 to the amendment is before you. All those in favor signify by voting aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of the amendment to the committee amendments.

SENATOR CUDABACK: Thank you. The amendment to the committee amendment is adopted. Speaking to the amendment...the committee amendment, AM1210. Senator Beutler, you're recognized.

SENATOR BEUTLER: Senator Stuhr, if I may, just a couple of questions, so I can better understand a couple of the provisions. First of all, with regard to the bill,...

SPEAKER BRASHEAR: Senator Stuhr, will you yield?

SENATOR STUHR: Yes.

SPEAKER BRASHEAR: Senator Beutler.

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SENATOR BEUTLER: First of all, with regard to the amendment...which becomes the bill, right?

SENATOR STUHR: Yes.

SENATOR BEUTLER: Is there a fiscal cost to the state or to the county or to any employer by virtue of any of the provisions of the bill? Is there...are there any additional costs?

SENATOR STUHR: No.

SENATOR BEUTLER: Okay. And then, in Section 11 of the bill, where it says it would require the completion of 1,000 hours of service to receive credit for a full year of membership service, what is the current rule? Is that a...well, what happens now?

SENATOR STUHR: I'm not sure exactly what the current rule for Omaha is. I do know that the state plan for the other school employees is 1,000 hours. So what Omaha is trying to do is to come on board and be the same as...

SENATOR BEUTLER: Okay. Does this rule represent a further limitation of the rights of Omaha employees? Or does it represent an expansion of their rights?

SENATOR STUHR: I don't know that it actually has to do...it's just a...more or less, a clarifying provision on how many hours of work actually are defined as a year of service. And...

SENATOR BEUTLER: Okay. So you don't believe it represents any substantial deviation from what they do currently?

SENATOR STUHR: No. And I did have a handout, and if I could find that, but I can't seem to put my hands on it right now, what they formerly were. But they're just...they're trying to be as uniform as the rest of the school employees across the state.

SENATOR BEUTLER: Okay. But there's no cost associated with that provision?

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LB 364, 691

SENATOR STUHR: Pardon?

SENATOR BEUTLER: There's no additional cost...

SENATOR STUHR: No. No.

SENATOR BEUTLER: ...associated with that provision?

SENATOR STUHR: No.

SENATOR BEUTLER: Okay. And then, with regard to Section 13, where it says it would restrict the purchase of prior service credit for service performed in other school districts to a number of years, not to exceed ten, that does not exceed the member's years of membership with the Omaha Public Schools, that...is that a limitation on what currently exists? Or, again, is it...

SENATOR STUHR: Again,...

SENATOR BEUTLER: ...putting into statute what they currently do?

SENATOR STUHR: Yes. Again, it is trying to be similar to the state plan, which limits no greater than ten years can be purchased. So they're trying to come into compliance, so that they will be in the same compliance as the rest of the state, so.

SENATOR BEUTLER: Okay. Well, it's good we're getting some more uniformity in how we deal with this. Finally, I'm not sure that I understand the implications of the provision on page 7, line 20 and thereafter. It is that part of the bill that I think is...you identify as LB 691. And on your yellow sheet, you attempt to explain--and you probably do explain, I'm just slow picking it up--that language at the bottom of page 7, which appears to be parallel language to the language that...

SPEAKER BRASHEAR: One minute.

SENATOR BEUTLER: ...is in the bottom half of page 49, applying

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to the state. So as I understand it,...well, Senator, I think I'll stop right there, because we're going to get into the middle of this discussion, and the Speaker is going to tell me my time is up.

SENATOR STUHR: Okay.

SENATOR BEUTLER: Thank you.

SPEAKER BRASHEAR: Thank you, Senator Beutler. Further speaking to AM1210. Senator Beutler, you're recognized.

SENATOR BEUTLER: Senator Stuhr, could I pick up on the discussion, if you would yield? Again, talking about the...

SPEAKER BRASHEAR: Senator Stuhr, will you yield?

SENATOR STUHR: Okay. Yes.

SPEAKER BRASHEAR: Senator Stuhr, will you yield?

SENATOR STUHR: Yes.

SPEAKER BRASHEAR: Thank you.

SENATOR BEUTLER: Again, speaking about the language on the bottom half of page 7 and the bottom half of page 19, is the one applying to the county system, apparently, the County Expense Fund, and the other to the State Expense Fund. And apparently, when an employee terminates, if they're not vested, then the contributions that the employer made are forfeited.

SENATOR STUHR: Right. Yes.

SENATOR BEUTLER: Okay. And then, under the old law, those funds were first used to pay for cash balance plan expenses. But when such funds, you say, exceed those expenses, they are then used to offset future employer contributions. So instead of doing that, we're going to take these forfeited monies and use them to pay additional administrative expenses relating to the cash balance benefit and the defined contribution benefit.

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These administrative expenses...administrative expenses, generally, are paid how in these systems?

SENATOR STUHR: I believe they are paid through the forfeiture funds.

SENATOR BEUTLER: Well,...

SENATOR STUHR: And...

SENATOR BEUTLER: ...it says, additional administrative expenses are being paid this way. But administrative expenses generally, that we're paying right now, how...who bears the expense of those?

SENATOR STUHR: I'm sorry. Senator Beutler, could you repeat that again?

SENATOR BEUTLER: The...it says that this new system will be used to pay additional administrative expenses. So apparently, there are already some administrative expenses, which would make sense. And those expenses are paid out of what fund? In other words, who pays them? I'm trying to determine how the funding is shifting here,...

SENATOR STUHR: Right.

SENATOR BEUTLER: ...and who the funding shifts from, or to,...

SENATOR STUHR: Yes.

SENATOR BEUTLER: ...or whether it shifts at all.

SENATOR STUHR: Well, if you remember, several years ago, we shortened the vesting period. So we don't have as many forfeiture funds as we previously had, because of that shortened vesting period. And I can't tell you...I can't recall right off the top of my head, you know, what those years were. But previously, we had a longer vesting period. And so we had more forfeiture funds, which were used for administrative expenses. Then we also changed to the cash balance plan. And so we had a



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combination of circumstances that didn't allow for a pool of money to be used for those administrative funds. We have checked with the IRS and, you know, various people that we needed to check with. And we...if we use that money, we can use it for administrative purposes before we place it in the plan fund, I guess, would probably be the best way to say that. So those are a couple reasons. And we had to change the statute in order to allow...

SPEAKER BRASHEAR: One minute.

SENATOR STUHR: ...that mechanism to happen. And, you know,...

SENATOR BEUTLER: Okay.

SENATOR STUHR: ...we'll be glad to visit with you off of the floor if you would like some additional information on that.

SENATOR BEUTLER: Okay. I think I'll do that, Senator. Thank you very much.

SENATOR STUHR: Okay. All right.

SPEAKER BRASHEAR: Thank you, Senator Beutler. Further speaking to AM1210? Seeing none, Senator Stuhr, you're recognized to close.

SENATOR STUHR: Thank you, Mr. President and members of the body. As I said previously, this amendment actually becomes the bill. We have a number of provisions. Most of them are technical in nature. We have also included LB 365, LB 367, and LB 691 into this bill. And I would ask...into this amendment. And I would ask for your support. Thank you.

SPEAKER BRASHEAR: Thank you, Senator Stuhr. Members, the committee amendment is before you. All those in favor of the amendment vote aye; those opposed vote nay. Have you all voted? Mr. Clerk, please record.

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of committee , amendments Mr. President.

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LB 364, 683  
LR 93, 94

SPEAKER BRASHEAR: Thank you. Committee amendments are adopted. Speaking to LB 364. Senator Stuhr, you're recognized to close.

SENATOR STUHR: Thank you, Mr. President and members of the body. LB 364, as stated earlier, is a comprehensive technical bill. And it does make changes to the Class V School Employees Retirement System, and, with the amendment that was passed, also adds the additional three other retirement bills. With that, I ask for your support. Thank you.

SPEAKER BRASHEAR: Thank you, Senator Stuhr. Members, the question before the body is the advancement to E & R Initial of LB 364. All those in favor signify by voting aye; and those opposed vote nay. Mr. Clerk, please record.

ASSISTANT CLERK: 29 ayes, 0 nays on the motion to advance the bill, Mr. President.

SPEAKER BRASHEAR: Thank you. LB 364 is advanced. Members, while the body is in session and capable of transacting business, I propose to sign and do hereby sign LR 93 and LR 94. Thank you. Mr. Clerk.

CLERK: Mr. President, the next bill, LB 683, introduced by Senators Schimek and Chambers. (Read title.) The bill was read for the first time on January 19 of this year, referred to the Government, Military, and Veterans Affairs Committee. That committee reports the bill to General File, with committee amendments attached. (AM0641, Legislative Journal page 659.)

SENATOR BRASHEAR: Thank you, Mr. Clerk. Senator Schimek, please, to open.

SENATOR SCHIMEK: Yes, thank you, Mr. President, and members of the body. LB 683 is a bill to raise constitutional salaries, and as you all know, their salaries are dependent upon us and not upon changes in the constitution. So generally speaking, every four years this body does consider a...the salaries that are being paid, and whether or not adjustments need to be made. The bill that is before you would not actually take effect until

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after the next elections, and the taking of office of the new constitutional officers in the year 2007. We technically could still introduce the bill next year and have it be timely, but I thought that it might be well to do it this year, in case time ran out or in case something else happened that we were unable to pass the bill. The first thing I would like to do is to tell you that the bill that I introduced was actually the bill that Senator Chambers introduced last year, I believe it was, Senator Chambers. And the committee did not take action on the bill last year, because they thought we still had several years to consider it, and so we did not advance it from committee. I took the exact same bill that Senator Chambers had introduced, and with his concurrence and permission, I went ahead and did the same bill. What the committee did, then, was to consider the amounts in the bill itself, and the committee amendment actually reduces some of them that were originally introduced, and I will go into that. I'd like to tell you that originally, for the Public Service Commission, we introduced a salary of \$75,000. The current salary is \$50,000, and the committee chose, through its amendment, to make that \$60,000. They thought that was too big of a jump. For the Governor, the salary would be \$100,000. It's presently \$85,000. The committee didn't touch that. For the Attorney General, the annual salary in the bill would have been set at \$70,000...or no, I'm sorry, \$90,000. The current salary is \$75,000. And the committee did not touch that. For the Secretary of State, the current salary is \$65,000. The bill, as introduced, said \$85,000, and the committee said \$75,000 in their amendment. The Auditor of Public Accounts, the annual salary presently is \$60,000. The bill, as introduced, would have made it \$85,000. The committee reduced that to \$75,000. The State Treasurer's annual salary is \$60,000. The salary, according to the bill, would be \$85,000 in 2007, but the committee, again, reduced that to \$75,000. And for the Lieutenant Governor, the salary presently is \$60,000; the annual salary would be \$75,000, according to the bill, but the committee did reduce that to \$65,000. Now I would like to go over a couple of handouts that I distributed to you, and the first one looks at the cost of increasing those salaries, based on the committee amendment. And you'll see listed there exactly how much the increase would be for each office, and the total, then, would be \$125,000, and

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that's based on the fact that you have five Public Service Commissioners. If you looked at that and figured out how much that would be per person for the state of Nebraska, you'll see it's 7 cents per person, so we're not talking huge numbers here. And in fact, the total salaries, as they are now with the addition, would be about \$780,000 a year, and that adds up to about 46 cents per person. So I'd like next for you to take a look at the orange sheet that we passed out, and I'd like to just illustrate for you why I think the salaries do need to be increased. If you look at the Governor's column, notice that this column is divided into regions, and I want to concentrate mainly on the Midwest, because I don't think that we necessarily have to compare ourselves to California or New York or Michigan, one of the big states, although Michigan is in our region. If you'll look there, you'll see that the highest salary paid in our region for Governor is \$177,000 at the present; in Nebraska, as I said, it's \$85,000. If you look a little bit further, you'll see that Nebraska is the lowest one in the region, but not only that, there's only two states in the whole United States that pay a lower salary. I won't go over the Lieutenant Governor, because that's a little bit hard, because not everybody has a full-time Lieutenant Governor, but you will notice in our region, the high salary is \$123,900; the low is \$60,000, that's Nebraska, and we are the lowest, again, in the region. If you look at the Secretary of State, again, Nebraska is the lowest...oh, I take it back. Wisconsin is the lowest in the region; Nebraska is just a little bit behind. And for the Attorney General, Nebraska is the lowest in the region, and for the State Treasurer...no, North Dakota is; Nebraska is closely behind. For the State Treasurer, again, Nebraska is the lowest in the region. And if you take it one step further, in most cases when Nebraska is lowest, that's the lowest in the nation, too, except by maybe one other state. So all I'm wanting you to see is that what we're proposing here will maybe bring us up from 49th or 48th, in some cases, not that we expect to necessarily be first, but I'd like to see us keep pace with the other states, and what the other states are doing. But even discounting that, I do think it is a matter of paying people for the job responsibilities that we give them, and we do give our elected officials a lot of responsibility. There's a lot of stress with the job; there's a lot of necessity to have good

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people in those jobs. And I would hope that you would agree with the committee amendment and would support not only that, but the bill itself. With that, Mr. President, I would conclude my remarks.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Schimek. As stated by the Clerk, there are committee amendments. Chairman of the committee, you are recognized to open.

SENATOR SCHIMEK: Yes, Mr. President. I think that I have fully explained the committee amendments as I went along, but just to reiterate, there would be increases for the Governor of \$15,000, Lieutenant Governor \$5,000, Secretary of State \$10,000, Auditor, Attorney General, State Treasurer \$15,000, and then for the Public Service Commissioners \$10,000. And I might remind you that those salaries cannot be increased again for an additional four years beyond 2004. So you have to think prospectively a little bit, when you're talking salary increases. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the opening on AM0641. Open for discussion. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, as Senator Schimek pointed out, I had offered a bill like this last year, and the committee didn't act on it. And at that time, I felt the increases in salary that I was recommending were not even modest, but rather paltry. The committee saw fit to reduce even those paltry increases, but a step in the right direction must be taken, and the committee amendment is doing that. So I will support the committee amendments, but that is not to say I will feel bound to stick with those amounts when the bill is considered on Select File. We should forget the identity and everything else about the particular person who holds any one of these offices. There is a certain amount of dignity, if you'll let me use that word, which should attach to these positions. And in America, salary equates to dignity or, vice versa, dignity equates to salary. When you pay nothing, it shows a profound disrespect and lack of regard for the office and the

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work done by those who hold these offices. We should not want people to be semi-volunteers. We don't have to like the person holding that office at all. There are many local employees who make far more money than what we're proposing to pay these constitutional officers. If the state was to be run by a business, we would start by giving a halfway decent salary. The senators are well aware of how unjust it is to provide only a \$12,000 a year salary for senators. These individuals receive their paltry salaries because the Legislature is so tightfisted. We are not talking about a host of people. We are talking about giving somebody a \$10,000 increase in salary, and some people with that MICA Board in Omaha, that mismanages the Qwest Civic Center, get more than that in bonuses. One of the employees makes, I believe, over \$100,000. At least the Governor position will have a salary of \$100,000. Coaches worth anything would not consider accepting a job at a college, university, to coach a football team for a mere \$100,000. In addition to the salary, they get shoe or athletic clothing contracts. They get bonuses if they win so many games, additional money if they win a championship in their conference, additional money if they win a national championship. Certainly these officials, as far as responsibility, have more to deal with than a football coach. However, being fair, people will go to pay to watch the operation that a football coach is in charge of, but people will not pay to come watch any of these officials do anything. Watch the Governor govern, watch the Lieutenant Governor lieutenant, watch the Attorney General general.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: So we're not paying them on the basis of what they could command in terms of admission fees to watch them. We know that these offices should command a higher salary than they currently do, and I believe they should command a higher salary than what the committee is offering. And Senator Schimek made a very profound statement to try to remind us of something. There's going to be a period of time before we can raise salaries for these offices again. That should be taken into consideration. But in the meantime, the stopgap measure, I'm going to support the committee amendment. And I look around the Chamber, and I'm glad to see that we have such splendid

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attendance here. We have about six or seven, which is more than what we used to have, but I see a couple of new people, who don't realize that they don't have to be here right now. And I see Senator Burling, because he's got a bill. He's doing all he can to hang on. Hang in there, Senator Burling, hang in there. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the Government, Military, and Veterans Affairs Committee amendments to LB 683. Senator Foley, followed by Senator Schrock.

SENATOR FOLEY: Thank you, Mr. President, members. I rise in support of the bill. Senator Schimek, I did have a question for you, if you wouldn't mind.

SENATOR CUDABACK: Senator Schimek, would you yield to a question from Senator Foley?

SENATOR FOLEY: Senator, thank you for bringing the bill. I certainly agree with what you're attempting to do there, and as is so often the case, I tend to agree with Senator Chambers that, if anything, this amendment is a little bit on the low side, in terms the numbers we're talking about here. But something you said did pique my curiosity. And I walked into the room midsentence, so to speak, so maybe you already said this. But why is it that these salaries cannot be changed again for another four years? I presume it must be some kind of a constitutional bar to changing that in midstream?

SENATOR SCHIMEK: Yes, that is correct. The salaries cannot be changed during a person's term of office.

SENATOR FOLEY: So if the bill passes, the new salaries take effect in '07.

SENATOR SCHIMEK: That's correct.

SENATOR FOLEY: And then, at the earliest, they could not raised again until 2011.

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SENATOR SCHIMEK: That is correct.

SENATOR FOLEY: Yeah, okay. Well, again, I support the bill, but I do think that maybe these numbers are a little bit on the low side. Thank you.

SENATOR CUDABACK: Thank you, Senator Foley. Senator Schrock, followed by Senator Stuhr.

SENATOR SCHROCK: Mr. President, I do support the salary increase. Senator Schimek, just a question or two. How did you determine that some offices get a \$10,000 raise? The Lieutenant Governor kind of sticks out at \$5,000. Probably if I was going to change something, I'd make the Governor a little higher. We have a lot of state agencies...agency directors that make more than that. But I'm very content with what you have here, but you might just expand on that a little bit.

SENATOR CUDABACK: Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Senator Schrock. I think the committee looked at the additional responsibilities that had been given to some of these offices over the past few years, and that was part of their consideration. And I think the State Auditor, for instance, has had a...has had significant increase in workload and responsibility, as has the Attorney General, with some of the new units that there have been. The State Treasurer's office, with the new child support system...I think we looked at those kind of things, and I'm certainly open to any suggestions that you might have, but I believe that was the basic thinking of the committee. They tried to judge workload, to some degree.

SENATOR CUDABACK: Thank you, Senator Schrock. Were you finished, Senator Schrock? On with discussion. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I too want to thank Senator Schimek for bringing this amendment. Just to recap again. Looking at the regional average, we certainly are not out of line. In fact, I think the committee has been very conservative in the suggestive amounts



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that they are proposing. Looking for the regional average, the Governor, \$114,000; we're proposing \$100,000. Lieutenant Governor, average \$78,000; we're proposing \$65,000. Secretary of State, \$84,000; we're proposing \$75,000. State Auditor, \$93,000; we're proposing \$75,000. Attorney General, \$98,000; we're proposing \$90,000. State Treasurer, \$87,000; we're proposing \$75,000. I would have to agree that waiting at least five more years, that possibly, if the body saw fit, we could raise each one slightly more. We're looking at a total of \$125,000 increase. So maybe the body will want to consider that at a later time. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Senator Stuhr, I'm so appreciative of what you just said, and the fact that you stated those averages for us. On Select File I do intend to try to raise these amounts. If I wanted to get even with somebody around here, I wouldn't do it by cutting the salary. That doesn't hurt that individual as much as it hurts the dignity of the office, and we can do better than what is proposed here. But we have to be thankful for small things, since that small thing represents only the start. And by the time this bill is considered on Select File, I believe more of our colleagues will see that the salaries proposed in the bill, as amended by the committee, are not adequate by any standard or any measure. I'm not even looking at the workload. These offices should not be judged on the basis of piecework, if you want to call it that, because there are ups and downs in terms of how much actual work may be done, or may not be done. It is the nature of the office and the responsibility that goes along with, or attaches to that office. These are constitutional officers. There should be more that goes with holding that office than just the honorary title, which doesn't carry much honor. Pay people what they're worth. And you might say they're overpaid, if you don't like the individual. Pay what the office ought to have annexed to it as a salary, and you'll agree that these amounts that we're offering are woefully inadequate. I have to keep reminding myself how low these salaries actually are. But the comments that I've heard this afternoon--well, it's evening now--have been heartening to me. Some of us have been trying for years to

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raise these salaries, and the thing that shows me how little regard some reporters and others have for me, even editors, they were shocked that in view of the battles I was having with almost every one of these office holders, that I would be leading the way, in some regards, and tagging along with anybody else who was leading the way, to raise the salaries. I let them know it has nothing to do whatsoever with who is holding the office. You all are going to term limited out because people don't like me, and that's not fair to any one of you. I'm accustomed to different ways that people want to deal with me, and actually when they try to hurt me the most, they flatter me the most. They are doing this to get rid of a 70-year-old man. They fear a 70-year-old man. Although, listen to this. (Knocking) I have my real teeth; maybe they think I'm going to come out there and bite them or something. But I'm not. If people out there in the hustings cannot look past the individuals, and they will damage a branch of government to get at an individual, we can see that and understand it, and realize it should not be done. So we ought not accept that as the standard according to which we operate, when we're setting the salary for others. We set these people's salary, and I have to say again, that I'm pleased that the committee let the bill out. I'm pleased that they're willing to give some increase, but I'm not satisfied, and on Select I'm going to try to raise these amounts, and...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...something that I customarily do not do I will do this time. I'm going to try to talk to my colleagues and hope that by the next time we consider this bill, enough will see the justice, the wisdom, the prudence of raising these salaries, and that's what I intend to do. But at this point, I'm going to take what we can get. And I also want to applaud Senator Schimek for fighting the good fight and the successful fight, up to now. And Lord willing, I'll kick it up a notch and carry us to the next step. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion. Senator Raikes, followed by Senator Schrock.

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SENATOR RAIKES: Thank you, Mr. President and members. Senator Schimek, I have a question or two I'd like to ask.

SENATOR CUDABACK: Senator Schimek.

SENATOR RAIKES: You mentioned that there was a four-year time that had to elapse before this could be addressed again. Would you explain that?

SENATOR SCHIMEK: Yes, Senator Raikes. The...we cannot raise salaries during a term of office, and the term of office does not end, of course, until the next elected Governor or Lieutenant Governor, whomever takes office.

SENATOR RAIKES: Okay. When was the last time that these salaries were increased, or changed? I assume they were increased.

SENATOR SCHIMEK: Four years ago.

SENATOR RAIKES: And before that?

SENATOR SCHIMEK: Well, my recollection is--I'm trying to think back. I should say, right up front for everybody in here who doesn't know, or doesn't remember, that almost every time that I can ever think of, the salary bill for constitutional officers is vetoed by the Governor, almost without exception. And so, there's been an attempt every four years to change the salary, but one year, the salary bill got to the Governor so late the Governor didn't...vetoed it too late for the Legislature to actually override. Generally what the Legislature does is override, and generally, we do this every four years, to the best of my recollection.

SENATOR RAIKES: Okay, thank you. Another question pertains to...I understand these are constitutional officers, but just for my information, nonconstitutional officers, for example, the tax commissioner. How is that salary determined?

SENATOR SCHIMEK: I believe by the Governor, but I'm not certain about that. But we don't do that.

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SENATOR RAIKES: Are these published, the salaries, for example, for the tax commissioner and the director of agriculture and several others? Are these public, publicly available numbers?

SENATOR SCHIMEK: Yes, they're public records.

SENATOR RAIKES: Do you know how those compare with the salary of the Governor?

SENATOR SCHIMEK: Some of them are much larger, Senator.

SENATOR RAIKES: Okay, well, that's interesting information. So occasionally, in order for the Governor to attract a person to a position, a nonconstitutional position, that is qualified, they may well have to pay a salary that's higher than what the Governor receives.

SENATOR SCHIMEK: Oh yes, very definitely.

SENATOR RAIKES: Okay. One other question. Most...I think all of these constitutional officers, with the exception of public service commissioners, would be described as full-time jobs. These people spend their...they wouldn't have a...

SENATOR SCHIMEK: That is correct, and I believe that, anymore, I think public service commissioners you would consider to be full-time. I believe they're here five days a week.

SENATOR RAIKES: Okay, that was my question. They do typically work five days a week? Okay.

SENATOR SCHIMEK: Yes, they do now. Senator Janssen is saying off the mike here, that was not always true.

SENATOR RAIKES: Okay, those are my questions. Thank you.

SENATOR SCHIMEK: Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Senator Schrock.

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SENATOR SCHROCK: Senator Schimek, I think I know the answer to this, but none of these salaried people receive benefits, do they?

SENATOR CUDABACK: Senator Schimek, would you answer?

SENATOR SCHROCK: Senator Schimek, none of these salaries we're trying to raise, none of these officers or officials receive benefits, do they?

SENATOR SCHIMEK: Yes, they do.

SENATOR SCHROCK: Oh, really?

SENATOR SCHIMEK: Yes, they do. We checked on that, because I didn't know the answer to that, either.

SENATOR SCHROCK: What kind of benefits do they receive?

SENATOR SCHIMEK: Health benefits and they can buy into retirement benefits. They don't get some of the other things that our employees get, like vacation and sick leave and that kind of thing.

SENATOR SCHROCK: I was unaware that the Governor received a health benefit package.

SENATOR SCHIMEK: Yes.

SENATOR SCHROCK: And that would be true of the other constitutional officers, then?

SENATOR SCHIMEK: Yes.

SENATOR SCHROCK: And then if you were going to compare like to like, we'd have to know what the other states are doing for benefits too, also.

SENATOR SCHIMEK: That's correct.

SENATOR SCHROCK: If you have any information on that, fine. If

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you don't, if you could get a little information between now and Select File, it might be beneficial, but not necessary.

SENATOR SCHIMEK: I don't have any information on that. I highly suspect, though, that most states allow benefits. I think most states allow benefits for the legislators, as well.

SENATOR SCHROCK: But if you're going to compare like to like salaries, you need to know what the benefits are, versus other states. It makes a lot of difference.

SENATOR SCHIMEK: Yes, it would make some difference, but I'm not sure how to...sometimes it's comparing apples to oranges, because in some states, they might get health benefits, and in other states they might get health and retirement, in other states they may get something else. I mean, that gets pretty complicated, but we can kind of get an overall, maybe, notion of what they do.

SENATOR SCHROCK: Thank you.

SENATOR CUDABACK: Thank you, Senator Schrock. Seeing no further lights on, Senator Schimek, I recognize you to close on AM0641.

SENATOR SCHIMEK: Yes, thank you, Mr. President, members. I very much appreciate the discussion. I very much appreciate your willingness to consider maybe even changing the amounts in here. The committee discussed this at length, and we knew that when we brought the bill up on the floor, there would be suggestions for changing these amounts. But the committee did what it thought was probably at least made it likely that we would be able to pass something, and we felt like we really needed to do something. So to remind you, the committee amendment raises the Governor's salary \$15,000; Lieutenant Governor \$5,000; Secretary of State \$10,000; Auditor, Attorney General, and State Treasurer \$15,000; and each public service commissioner \$10,000. So with that, Mr. President, I would ask for adoption of the committee amendments.

SENATOR CUDABACK: You've heard the closing on the adoption of

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the committee amendments to LB 683. The question before the body is, shall AM0641 be adopted? All in favor vote aye; opposed, nay. The question before the body, the adoption of the Government, Military, and Veterans Affairs Committee amendments to LB 683. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 37 ayes, 0 nays, on the adoption of committee amendments.

SENATOR CUDABACK: The amendments are agreed to. Anything further...

CLERK: Mr. President, I have nothing further on the bill.

SENATOR CUDABACK: Thank you, Mr. Clerk. Open for discussion on advancement of LB 683 to E & R Initial. Seeing no lights on, Senator Schimek, you're recognized to close.

SENATOR SCHIMEK: Thank you, Mr. President, and as you know, the committee amendment becomes the bill, so I'd simply ask for advancement of the bill. Thank you.

SENATOR CUDABACK: You've heard the closing on advancement. The question before the body is, shall LB 683 be advanced to E & R Initial? All in favor of the motion vote aye; those opposed vote nay. Have you all voted on the advancement who care to? Record please, Mr. Clerk.

CLERK: 37 ayes, 0 nays, on the motion to advance, Mr. President.

SENATOR CUDABACK: LB 683 does advance. Mr. Clerk and members, we now go to General File, 2005 senator priority bills, McDonald division. Mr. Clerk, LB 542.

ASSISTANT CLERK: LB 542 was introduced by Senator Burling and others. (Read title.) The bill was read for the first time on January 14 of this year, referred to the Revenue Committee. That committee reported the bill to General File with committee amendments attached. They were considered yesterday. At that

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time, an amendment to the committee amendments, offered by Senator Burling, was adopted. We now have pending other amendments to the committee amendments, Mr. President.

SENATOR CUDABACK: Senator Burling, would you care to give us a quick review on the bill itself, LB 542?

SENATOR BURLING: Thank you, Mr. President. As the Clerk has said, yesterday I introduced LB 542. Then Senator Connealy, Vice Chair of the Revenue Committee, introduced the committee amendment, which became the bill. And then my amendment, AM1099 was adopted onto the bill. And then we adjourned. So what we have before us right now is a bill that creates a tax study commission of 15 members--8 appointed by the executive branch...or, Executive Board of the Legislature, and 7 appointed by the Governor. They are to study our tax code, tax policy, and report back to the Legislature and the Governor in November of '06, hopefully with the idea that legislation can be introduced in January of '07 to implement some of the recommendations of the commission. So that's where it's at now. And there are amendments pending. Thank you.

SENATOR CUDABACK: Thank you, Senator Burling. Senator Connealy, Vice Chair of the...did you wish to update us on the Revenue Committee amendments?

SENATOR CONNEALY: Thank you, Mr. President. As Senator Burling stated, the Revenue Committee's amendment reduced the number from the original green copy, down to 15. And as he stated, now there are 8 legislators, and the balance of the committee...of the commission, is appointed by the Governor.

SENATOR CUDABACK: Thank you, Senator Connealy. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the next amendment to the committee amendments is offered by Senator Beutler. This is AM1228. (Legislative Journal page 1217.)

SENATOR CUDABACK: Senator Beutler, you're recognized to open on AM1228 to the Revenue Committee amendments to LB 542. Senator Beutler.



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SENATOR BEUTLER: Senator Cudaback, members of the Legislature, just to refresh your memory, this is a group designed by Senator Burling to study tax policy. And tax policy consists of a number of different areas that I'll go back to in a minute. But the commission that is now in place under Senator Burling's amendment to study tax policy consists of eight members of the Legislature, to be designated by the Executive Board. And then there are seven different individuals appointed by the Governor. One represents the education community, production agriculture, industry and manufacturing, financial sector, telecommunications sector, city government, and county government. And I just wanted to add two people to that list, to give it some balance. One of those persons would be a representative of organized labor, as appointed by the Governor, just as the others are. And the other is a representative of a low-income advocacy group, also appointed by the Governor. And then, in order to balance out the Governor's appointees with the legislative appointees, in accordance with the original proportion between the two groups, I also added two members of the Legislature to be appointed by the Legislature. So you end up with ten members of the Legislature and nine members appointed by the Governor. But the study is a general and broad study of tax policy. It identifies all of the different tax principles, the basic tax principles that one should look at. And it cuts across, obviously, all income groups, all people. It's a study that is to, as I understand it, study the effect upon all people, and not just the effect on certain types of industries or certain types of businesses. It says that...under language that's left in the bill, that it is to examine, for example, household tax burdens, and normal tax rates, all the different types of tax rates involved, including residential property taxes and that sort of thing. So it seemed to me that the slant that was currently there gives good representation to industry groups of one type or another, but not particularly good representation to the average taxpayer, or to the laboring side of the population, who, of course, is every bit as interested in tax policy as is the business side. So in order to make the representation a little broader and a little deeper, I wanted to recommend to you that you add these two individuals to be appointed by the Governor--a representative of organized labor, and a

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representative of a low-income advocacy group. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Open for discussion on AM1228. Senator Wehrbein.

SENATOR WEHRBEIN: Mr. President, members of the body, I'd like to ask Senator Connealy a question if he...as Chairman...Vice Chair...

SENATOR CUDABACK: Senator Connealy, would you yield?

SENATOR WEHRBEIN: ...of the Revenue...I expressed some concerns about this the other day, and I'm still concerned about the fact...as to where this is headed. I signed on the bill originally, although I'm not...I'm confused. I'm not on the green copy, but I am on the committee report. So somewhere along the line, I must have signed up. But I'm concerned that we have the data that we're really looking for without a study. Because I...when I...if I signed on, or at least told Senator Burling I'd support, I had in my mind it would be a Syracuse number two, or whatever, at least a more intense study that provide up-to-date facts. Because I don't know whether the percentage of sales, income, service, all those kind of details, can be accomplished with what we have. Maybe we can do it in-house, which would be great. Maybe we don't have to spend \$100,000, which would be great. But I'm really concerned that...I don't have so much problem with the makeup of the committee making the decisions, but I really wonder if they'll have the data available to make the kind of decisions I think we have to make, or at least draw from. I mean, if their premises are wrong, the study...the solution will be no better than what the premises are. Do you have any comment on that, in terms of your committee discussion, so forth? And the rest of the time is yours, unless I get a question.

SENATOR CONNEALY: Yes. Yes, Mr. President and Senator Wehrbein. From the discussion of the committee, it really came down to, do we want to own this, and do we want to do it ourselves, or do we want to turn it over to someone else and come with recommendations that we may not have the background on, and the ownership? And so the discussion was, how can we

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craft it in a more manageable level, with less numbers? We moved it down to 15 people. And then do it within our structure of Legislative Research and Revenue and the...Cathy Lang's shop, to have people that do that work, but then also be open to bringing in experts from our universities and our colleges to help us with that. That was the discussion. And that's why we crafted the committee amendment the way we did. Now it's been changed, of course, to add from the Governor's side. There's a little bit less ownership there, but I think it's still within that intent. And then as Senator Beutler comes with two other people, that does make it a little bit more unwieldy. I'd rather keep the number down. But I don't mind the change in the makeup. But that was discussion within the Revenue. As we look at these things on an ongoing basis on sales tax and the way we do incentives and everything this is about, you know, we do discuss this and study this on an ongoing basis. And I think that if we're going to implement drastic changes or big changes in the state, we as a Legislature have to own it. And that was the makeup, whether we have experts do it, or ourselves.

SENATOR WEHRBEIN: Can I have some time back, Mr. President?

SENATOR CUDABACK: You do have 1, 43, Senator Wehrbein.

SENATOR WEHRBEIN: Well, still, the question I have, can we get at the raw data that we need an update? And I wish...I should have looked at the Syracuse study to see what all the background they went into. But can we tell what our...is the intent to see what sector is paying and what sector is receiving? And I'm obviously thinking of agriculture as one. But there would be others. Are we looking at having the data available from...I mean, the intensity. I'm not an accountant or a tax expert. But I guess I still need a little more assurance that we don't need more basic data. I think the committee, whether it's 15 or 19,...

SENATOR CUDABACK: One minute.

SENATOR WEHRBEIN: ...is not a problem. I think they can examine that. But I'm still concerned. I overheard, I won't steal this, but it's GIGO--garbage in, garbage out. And Senator

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Beutler, I'll give you credit for that. I heard you say that. But I mean, that's the risk, as I see. And I'm not averse to funding adequately some experts. And I'm not saying the university can't do it. I just don't know what they...if we've had enough information to know if they have access. And I'm going to take all of my time, and you can reply on your own time, because I know I'm getting down to 30 seconds. That's all, Mr. President.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Burling, followed by Senator Connealy and five others.

SENATOR BURLING: Thank you, Mr. President. I thank Senator Beutler for the amendment, and for coming to me and visiting with me about it before he introduced it. As you know, my first proposal was 30 members, and the committee trimmed it back. And I understand their reasoning. So, I don't mind these other interest areas being put on the commission. I think the more interest areas you get, the better. But I'm in a position right now where I'm going to support the committee amendment of 15 members, and cooperate with them and try to stick to that and go with that idea. So whatever the will of the Legislature is, I'll go along with. But that's where I'm at, is to continue to support the committee amendment of 15. Of course, the public and private members of the commission will be expected to represent their interest areas. That's why they're selected. But I would certainly hope that if we're not...if we don't add more members to it, that the eight senators on this commission would truly keep mindful of the fact that they do represent not only 35,000 people as we meet here in a body, but also represent all citizens of the state as they are meeting on this commission. And so hopefully the senators will remember that as they deliberate on the commission, that there are people out there that may not be represented per se on the commission, and consider their needs and desires. And there will be, hopefully, plenty of opportunity for public input, as the commission holds hearings around the state. And so I just thank Senator Beutler for drawing attention to the fact that there are areas that aren't specifically recognized. But you know, we could add two or three, or three or four, or four or five, and probably somebody would still be left out. So I will personally continue

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to support the 15 members. Thank you. Return my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Burling. Senator Connealy, followed by Senator Chambers. Is Senator Connealy present?

SENATOR CONNEALY: Thank you, Mr. President, members. The discussion within the committee was to have a bill and a commission that we owned and that we would get the results from and then react on. We do use the studies that have been done in the past, as a Revenue Committee. And I think that those principles come through as we look at work of the committee that goes on this year and years past. So I don't think that the studies in the past have been a waste. But I think that the committee as a whole, in its discussion, thought that we just pare it back from an outside interest coming in and running it. And I think that's what the general discussion was as we proposed. Something bigger than an interim study, something broader than what we normally do to look at things, but not a grand, outside interest coming in and studying our tax policy. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Connealy. Senator Chambers, followed by Senator Redfield.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is a bad bill. The Revenue Committee never should have let it on this floor. They failed the Legislature, and they know it. You do not hear a ringing endorsement of this bill by anybody on the Revenue Committee. I like Senator Burling, too. But I'm not going to vote for something like this. If they look at the Syracuse study that took place between 1986 and 1988, you're going to base a future tax policy on something from then? That's like saying, well, Ernie, you had a Honda that you got 500,000 miles on ten years ago, so we're going to look at that. Okay, so they look at it. Hmm, it's got four wheels. We'll mark that down. It's got an engine, got a universal joint, it's got doors, windshields, windshield wipers. And I'm sitting there looking at them. And they say, well, are those things true? I say, yeah. But they have people who are called

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engineers who design new vehicles for new conditions, new markets, and to move forward. Nobody on this commission that they're talking about brings any expertise. If the Governor, who was elected to office on a partisan basis, is going to make all of these appointments, you don't have anything on there about making sure there's a division on the basis of political party. No balance. You think the Governor is going to appoint somebody who may have opposed him or her? This is preposterous. This should not be...it's a waste of time, a waste of money, and it creates a false impression that you all know better than to accept. You can't just take hodge...a hodgepodge of people and say, this guy works in telecommunications, this woman is in production agriculture, and you put all these people together, and then the senators, none of whom has any expertise that would cause anybody who wants a study of this kind done to hire as a consultant. So you get a lot of people who might be well-intentioned, but they don't know anything, and they're going to come together. And we're supposed to take what they produce and build a tax policy on that basis? No. A thousand times, no. This bill needs to be consigned to the dustbin of well-meaning but worthless ideas. Nobody would run a business like this. When you hire a consultant, you don't just take people who are nice and who work in the same area you work. You take people who have honed and developed a specialized knowledge and ability to take you beyond what is going on now. Otherwise, you can do it yourself. Who in here is an expert on tax policy? They sometimes--and by "they," I mean senators--have to talk to staff members to figure out what an amendment is about, what the bill is about. And I certainly wouldn't want to have the staff around here do a study which is going to be the basis of the tax policy of this state. So why should I take senators, who know less than the staff members, and put them in that position, and kid myself into thinking that we're going to have a competent, professionally done, quality study. We know that's not going to happen. You all ought to be as frank and forthright about this as I am. If you do this, you take away the possibility of putting together a plan for a real study. You need people who already know a system for conducting a study, what kind of information to get, and how to process it, what to do with it, how to winnow it, take raw data, and cook it just right, so that you come up with a delectable...

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SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...meal. Why, when you get through with this, you won't even have good goulash. Nobody knows anything. So one person says, I like salt; throws in a handful of salt. Senator Stuthman: I like sugar; he throws in a handful of sugar. I like hot sauce, so I put in some hot sauce. Somebody else thinks wine makes everything better, so they put in some wine. Somebody else says, well, I think rum. And by the time you get through, what have you got? This is a bad bill. And before we get through with it, I'm going to put a motion on to kill it. And that's what we ought to do if we're going to be responsible. Or we ought to convert it to a decent study. How much time do I have, Mr. President?

SENATOR CUDABACK: I'm sorry...

SENATOR CHAMBERS: Oh, thank you. My time is up.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. If you're looking at the committee amendment and the explanation of the committee amendment, you will actually see that when we pared down the members of the committee, the ones that were selected by the committee to remain actually have a nexus with taxes. You look at the representative of city of government and the representative of county government, you recognize that they actually are tax collectors. And they are intricately connected with our tax structure, because in fact they derive their power from the state. You also see that the telecommunications sector certainly collects a lot of taxes for the state. Because if you get your telephone bill every month, you know how much of that is attributed to the tax burden. Then you see the representative from industry and manufacturing. You see that business often collects our sales taxes. And you see that there is a representative of financial sector. And when you file your taxes, you know that the banks have already sent that information in to our Department of Revenue, so that they



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can compare those dollars that you earn in interest from your certificates of deposit or any other accounts that you have at a financial institution. So again, they are intricately connected with our tax structure. You see that the representative from the education community is not a collector of tax. But they are certainly a big user of tax in this state. And the anomaly, actually, that was left in this group of eight is the production agriculture member. I think that's probably a recognition of the burden on the property tax level from that particular segment of our society. Because in numbers, they're very small. But in dollars of property taxes, they're very large. And so I believe that there was a reason why the Revenue Committee happened to select those eight out of the list that was in the original bill. The committee statement, if you go through, we eliminated the director of DED. We eliminated the Tax Commissioner, someone, certainly with expertise. We eliminated the Property Tax Administrator, again, someone with a lot of expertise. A representative of the tourism industry; a representative of retailers, and they actually do collect sales taxes; a tax policy expert appointed from a list from the Revenue Committee was eliminated; the NRD; and the health sector was also eliminated, remembering that in fact the health sector doesn't collect sales taxes, we don't charge tax on healthcare. Now, the committee as it is formed would have...or, the commission, I should say, has the authority to commission other research or presentations from institutions of higher learning in this state, so they can actually draw the economists and the other experts to come in and speak with them. And that is why there are some dollar appropriations in there. They can also hire a meeting facilitator. Whether in fact anyone will pay attention to the recommendations of this commission is open to question. Because in fact, we've often gathered a lot of information. We've seen a lot of studies. We've certainly seen studies that have been produced by academics in other states. And we can glean a lot of information from them. Actually, it comes down to political will, what the body is willing to do with the information they have. And that's why it's important to have legislators involved if there is a commission, or there will be no buy-in, and there will be no results. If we're going to do another study, let's make sure that...



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SENATOR CUDABACK: One minute.

SENATOR REDFIELD: ...perhaps the people who are involved in that study will at least have the authority to come back here to the floor and offer some kind of legislation to enact those recommendations. That would be my comment from why the Revenue Committee went the direction they did and chose the groups they did. I will tell you that while I have no opposition to the people from labor or from low-income advocacy groups, they actually don't have any nexus with the tax structure. All of us are laborers. All of us pay taxes as citizens. But in fact, we don't collect taxes. And when we're talking about structure, it's not something that's going to go back and pay these people, or benefit these people on the job. We're all workers. We're all laborers. So I think that the committee structure as it's put together might be preferable to the Beutler amendment, which I will not support.

SENATOR CUDABACK: Thank you, Senator Redfield. Senator Raikes, on AM1228.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I offer my endorsement to this. I maybe can't make it ring. But I actually do think this is a good idea, and one we should go forward with. There is...there have been a number of comments I'd like to respond to a little bit. One of them: well, the Syracuse study didn't work. It didn't work if you think or thought there should be something done by an outside group that you simply imprint in state statute in Nebraska, and it's over with. It doesn't...it didn't work that way. It won't work that way. An update of that study would not work that way. But one of the things the Syracuse study did was identify several principles, some of which...many of which, I should say, are still relevant today, which people who serve on the Revenue Committee can consider as they consider the various bills that come before that committee. The...for example, a broader tax base, a...several components of a tax base, simpler administration. Some of those things, regressivity versus progressivity, all those are things which are not maybe obvious to the person first arriving on that committee, but are important in analyzing bills and deciding which direction you're

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going to go. So I would suggest that this study is not so important in terms of who is on the committee, but...or, on the task force, but rather, who is invited to come in and present to that task force. If this is going to be simply a collection of advocates for a particular industry group, be it healthcare or be it laborers or be it agriculture, I think that's going to stand in the way of progress rather than assist progress. People in the Revenue Committee, by and large, I think feel the need for, and have responded to the need, to represent those who are not represented. So it's very important that principles that are underlying, that are ubiquitous, need to be uncovered and available to those who serve on that committee. This is a participatory committee. This...or, task force. This is not something where you hire...you spend a bunch of big money, you hire somebody from the outside to hand you the answer, and then you're done. It won't work that way, anyway. This is participatory. You have to be involved. And certainly, hopefully, current and future members of the Revenue Committee would be involved. Now, I will tell you one thing in particular, why I find this interesting. I've forgotten the year of the Syracuse study--a number of years ago, in the eighties. One of the things that has changed drastically since that time is the interstate competition on business tax incentives. This study, I think, could be useful entirely in that narrow area, if we could get some good insight on what is an appropriate way for the state of Nebraska to compete in that interstate environment on business tax incentives. It is certainly not a simple question. But as we'll soon find out, it is a critical question, in terms of money, in terms of equitable treatment of various groups of citizens in the state. Again, I think that if there is care given and good leadership on the task force,...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...there can be participators brought to present that can provide some real insight so that we can hopefully deal more effectively with that particular issue, which, again, I would suggest is very, very important. So, I don't agree with the notion that this is a waste, that this is a bad bill. I'm not going to suggest to you that there is

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something that can come out of this sort of an effort that you simply print into state statute. That's not the idea. But I think there can be some good information, some underlying principles brought out, that can be very useful to the...certainly, the Revenue Committee, and the Legislature as a whole. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Senator Mines.

SENATOR MINES: Thank you, Mr. President, colleagues. Let me first commend the Revenue Committee, as well as Senator Burling. I think, in concept, what they're trying to do could make some sense. In practice, I'm not sure that it's ready. My concerns are maybe different than Senator Raikes'. I think it is important who serves on that committee. And I think the committee has done...the Revenue Committee has done a great job of being inclusive, when in fact I wonder if maybe we didn't look at expertise being applied to the committee, as opposed to representation. This is participatory. It is important that a broad range of Nebraska is represented. But once that information is gathered, once the experts come in and testify, we need people on a committee that have the expertise to digest the information and then come up with a comprehensive idea and a plan. I'm not...I read the Syracuse study years and years ago. And we continue to talk about it. It sounds like it was a grand idea that never went anywhere. My concern would be that this legislation feels wonderful, feels really good, and once a plan is developed, we'll all embrace the plan and say, isn't that wonderful? But in practice, this body has to buy in, the Governor has to buy in, and the citizens of Nebraska have to buy in. And I'm not sure the structure of this committee or the legislation proposed does that. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. Senator Baker.

SENATOR BAKER: Thank you, Senator Cudaback and members. I'm also one of those Revenue Committee members that's going to defend the bill. We overhauled this bill in a pretty major way in committee, and I think it's a workable bill. We cut the cost back, the members back, and still thought we represented the people and the businesses that needed to be represented on the

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committee. I'm one of those people that checked the Syracuse study out a few years ago, too, and looked through it, read a lot of it, not all of it by any means. But we are actually implementing some of the recommendations in there now, dealing with tax climate. And school district reorganization was mentioned in there, how we fund school districts and so on. City-county government, we're working on some things with that. And the communications area, on public service access points and so on, we're going to address that. Sales tax on manufacturing equipment is a part of the puzzle that's in LB 312, the incentive package that's dealing with the general business climate, and so on. So I'm echoing what Senator Redfield said, Senator Raikes, Senator Connealy, as a committee member. We need to take another look at this. We hired the experts out of the Syracuse University study. And although the report, I think, has gathered quite a little bit of dust on the shelf, we did look at it. We had it in the committee. We talked about this. We didn't want to spend the money that was spent on the Syracuse study to update us on that. But these are things that we can use. And we think maybe a grassroots approach to this, rather than hiring an outside group of people, is probably the better approach. And hence, we are going to get an update on what we've done, with term limits and the turnover we're going to have. As Senator Burling said, the report is due before...toward the end of 2006 calendar year, so that there can be legislation drafted for the 2007 session, which will have 20...at least 20 new senators in there. We think it's imperative that they have some up-to-date and current information. And there may be some things come out of this that people don't expect. And I think that's one of the reasons we need to do it. And it would be worthwhile. It's not going to cost a lot of money. And there will be items come out of this that I'm sure will be discussed on the floor in the forms of bills, as a result, in the 2007 session. With that, I would return my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Senator Burling.

SENATOR BURLING: Thank you, Mr. President. I'd like to respond to some of the comments that have been made. You know, we've talked yesterday and today about the effectiveness, the cost of

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gathering information. And the amendment that we adopted yesterday, if you recall, part of that was, that I included in there, a charge to the commission to go to the Syracuse study for information in their deliberations. The Syracuse study was a good study, a lot of information in there. But it just...it lacked that connection between the study and implementation. And if this commission would consider the results of that study, I think that would go a long ways in getting some value that we paid for that into our policy. I understand that there is skepticism on whether or not this will work or can work. The resolve of the people on the commission will have a lot to do with that. Since our sales and income tax form of revenue was...began in 1967, we have not tried this type of commission in this state. And I submit to you that the combination of senators and private sector people gathering information from around the state will provide that connection between the results of the study and implementation of that study. So I think it has a good chance of being much more effective in making policy changes than previous studies have done. I don't know what the commission will recommend. Chances are, I won't agree 100 percent with it, or anybody else in this room. But I think it's time to gather people around the table and say, let's do away with our druthers. This is the situation. This is where we're at. This is the kind of economy we're living in today. This is the twenty-first century, here's where we're going. Let's kind of draw a road map of where we want to go and where we want to be. And then future individual legislation can kind of be directed down that direction. So hopefully, that answers some of the questions. And I thank the Revenue Committee members and other people for their input. Return my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Burling. Mr. Clerk, items for the record, please.

ASSISTANT CLERK: Mr. President, amendments to be printed to LB 542, from Senator Jensen and from Senator Beutler. (Legislative Journal page 1379.)

Mr. President, I do have a priority motion. Senator Kopplin would move to adjourn until Thursday, May 5, 2005, at 9:00 a.m.

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SENATOR CUDABACK: Heard the motion to adjourn till 9:00 a.m., May 5, 2005. All in favor say aye. Opposed, nay. The ayes have it. We are adjourned.

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